



The Brexit negotiations in the media: The Northern Ireland peace process

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Abstract

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This research examines the role of the Northern Ireland peace process in the Brexit negotiations between Britain and the EU by chronologically analysing articles published by British and Irish pro-Brexit, pro-EU, and least biased or neutral online media outlets. The time frame for this research starts from the suspension of the Northern Ireland Assembly on 9th January 2017 and ends on 29th March 2019, when Britain was expected to formally withdraw from the EU, notwithstanding the postponement of Britain's withdrawal on 21st March 2019. Firstly, this research presents the historical context of the peace process in Northern Ireland.

Secondly, this research considers the role of the EU in the Northern Ireland peace process. The EU has funded the Northern Ireland peace process since 1989, particularly through three programmes between 1995 and 2014. The continuation of the fourth programme until 2020 and the establishment of programmes in the future are uncertain as a result of Brexit. Moreover, the border between Northern Ireland and the Republic of Ireland will become an external EU border after Brexit. This could lead to the return of physical infrastructure on the border between Ireland and Northern Ireland that was removed after the establishment of the 1998 Good Friday Agreement, also known as the Belfast Agreement. The physical infrastructure on the border was removed in order to reduce the stereotyping and denigration that previously existed between Northern Ireland and the Republic of Ireland, particularly during the Troubles conflict from 1968 to 1998.

Thirdly, the chronological analysis determines that Northern Ireland's pro-Brexit and right-wing Democratic Unionist Party (DUP) was inevitably more influential in the Brexit negotiations than Northern Ireland's left-wing nationalist political party that is also active in the Republic of Ireland, Sinn Féin, because Sinn Féin abstains from participating in sittings at the House of Commons, the publicly elected lower house of the British parliament. However, in the Northern Ireland Assembly election that was held on 2nd March 2017, the two main nationalist parties gained more seats than the two main unionist parties for the first time since the partition of the island of Ireland in 1921. In

Britain's snap general election to the House of Commons that was held on 8th June 2017, Northern Ireland's unionist parties had less than 50% of the vote, also for the first time since the partition of the island Ireland in 1921, but they still had a higher percentage of the vote than Northern Ireland's nationalist parties. Britain's governing Conservative Party lost its majority in Britain's snap general election, and Conservative Party MP and British Prime Minister, Theresa May, became dependent on the DUP for her working majority in the House of Commons, despite the suspension of the Northern Ireland Assembly.

Fourthly, this research concludes that the Northern Ireland peace process, or more specifically, the border between Northern Ireland and the Republic of Ireland, was one of the most controversial issues in the Brexit negotiations. The backstop solution was developed to avoid a hard border between Northern Ireland and the Republic of Ireland. According to the backstop solution, Northern Ireland would remain in the EU Customs Union and the European Single Market in order to prevent the need for border checks until the establishment of alternative arrangements. The British parliament and government's inability to reach a consensus on the withdrawal agreement, which incorporated the backstop solution, ultimately led to the postponement of Britain's withdrawal from the EU on 21st March 2019. Finally, this research recommends the inclusion of media literacy, politics, the history of Northern Ireland and the Republic of Ireland, and languages in Britain's compulsory education. This research also suggests that the use of an alternative electoral system in Britain could improve election turnouts, reduce the perceived need for tactical voting, and prevent the dominance of an ineffective two-party system.

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List of acronyms

AV	Alternative vote
BBC	British Broadcasting Corporation
CTA	Common Travel Area
DUP	Democratic Unionist Party
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Association
EP	European Parliament
ERDF	European Regional Development Fund
ERG	European Research Group
ESM	European Single Market
EU	European Union
EUCU	European Union Customs Union
FDA	First Division Association
FPTP	First-past-the-post
FTA	Free trade agreement
GFA	Good Friday Agreement
GMT	Greenwich Mean Time
ICJ	International Court of Justice
IRA	Irish Republican Army
ISPO	Independent Press Standards Organisation
MEP	Member of the European Parliament
MFF	Multiannual Financial Framework
MLA	Member of the Legislative Assembly of Northern Ireland
MP	Member of Parliament
NIA	Northern Ireland Assembly
NICS	Northern Ireland Civil Service
NIE	Northern Ireland Executive
NIHRC	Northern Ireland Human Rights Commission
NIO	Northern Ireland Office
NIRA	New IRA
NSMC	North/South Ministerial Council
PIRA	Provisional IRA
PR	Proportional representation
RHI	Renewable Heat Incentive
RTÉ	Raidió Teilifís Éireann, Radio-Television of Ireland
SDLP	Social Democratic and Labour Party
SI	Statutory instrument
SNP	Scottish National Party
STV	Single transferable vote
TEC	Treaty establishing the European Community
TEU	Treaty on European Union
TF50	Taskforce on Article 50
TIG	The Independent Group

TUV	Traditional Unionist Voice
UK	United Kingdom
UKIP	United Kingdom Independence Party
UN	United Nations
US	United States of America
UUP	Ulster Unionist Party
VCLT	Vienna Convention on the Law of Treaties

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1. Introduction: The United Kingdom

On 23rd June 2016, Britain voted to leave the European Union (EU) in its referendum on EU membership by a vote of 51.9% to 48.1%. This is referred to as Brexit, which is a linguistic combination, also known as a portmanteau, of the words ‘Britain’ and ‘exit’. Many people supported Britain leaving the EU because they associated Britain’s EU membership with their concerns about immigration; terrorism; economic decline; cultural degradation; the perceived loss of sovereignty to Brussels, where the administration of many of the various EU institutions are located; bureaucracy and democracy in the EU; scepticism about the benefits of Britain’s membership of the EU; and those who supported Britain remaining in the EU spending “too much time trying to amplify the problems of Brexit at the expense of making the positive case for EU membership” (Clarke, Goodwin and Whiteley 2017). Immigration seemed to dominate the Brexit debate, which diverted attention away from other aspects of EU membership, such as the economy, trade, freedom of movement, and peacekeeping.

In the referendum, the majority of Britain’s regions of England and Wales voted to leave the EU, whereas the majority of Scotland, Northern Ireland, and Gibraltar voted to remain in the EU (Graham 2017b). This led to further discussions of Scottish independence and concerns about the impacts of Brexit on Northern Ireland because the border that Northern Ireland shares with the Republic of Ireland will become an external EU border after Brexit. Stereotyping and denigration previously existed between Northern Ireland and the Republic of Ireland since the partition of the island of Ireland in 1921, particularly during the Troubles conflict from 1968 to 1998. The Troubles conflict was between Protestants, often used interchangeably with unionists and loyalists; and Catholics, often used interchangeably with nationalists and republicans (Beiner 2013).

The constitutional issue is central to the hostilities because most Protestants support upholding the union with Britain and opposing a united Ireland, whereas most Catholics support Irish self-determination and Northern Ireland’s reunification with the Republic of Ireland (Féron 2017), although this isn’t always the case. Therefore, most Protestants consider themselves predominantly British, whereas most Catholics consider themselves predominantly Irish. The physical infrastructure on the border between Northern Ireland and the Republic of Ireland was removed after the establishment of the 1998 Good Friday Agreement (GFA), also known as the Belfast Agreement, in order to reduce stereotyping and denigration. According to the GFA, “there cannot

be a poll on Irish unity or remaining within the UK unless the majority of political representatives of both communities in Northern Ireland demand it” (McDonald 2016). Violence has decreased since the GFA, although tensions in Northern Ireland still exist.

In a survey conducted by market research company, Ipsos MORI (2016), one week before Britain’s referendum on EU membership, 32% of respondents thought that if Britain were to leave the EU, “the peace and stability on our continent will be put at risk”, and 21% of respondents thought that “the stability of Northern Ireland will be put at risk”. According to Fenton (2016; Humphries 2017; Graham 2017b), “Northern Ireland is the only part of the UK to share a land border with another EU country, the Republic of Ireland. It is unknown how Brexit will affect relations between the two regions”. Humphries (2017), claims that “Northern Ireland is widely seen as the region with the most to lose from Brexit”, although some people “saw no risk of a return to sectarian bloodletting as the region’s ordinary people now valued peace too much”.

Féron (2017) claims that an external EU and European Single Market (ESM) border between Northern Ireland and the Republic of Ireland after Brexit has the potential to increase violence and result in the loss of billions of euros of EU funding for the Northern Ireland peace process. According to Moltmann (2017, p.3), “EU membership offered a favourable context” relative to the Troubles conflict, and Brexit “casts a shadow on the already unstable peace in Northern Ireland”. Graham (2017b) claims that “Northern Ireland is the poorest region of the United Kingdom and potentially the one most economically exposed to Brexit”. Brexit could also have undesirable effects on the remaining 27 EU member states that invested a significant amount of time and money in the Brexit negotiations, particularly the Republic of Ireland due to its strong ties to and a shared border with Britain (Partington 2018). According to Wharton (2018), “the rest of Ireland didn’t even vote on the issue despite it having a sizeable knock-on effect there”.

Northern Ireland voted for Britain to remain in the EU by a majority of 56% (Garry, McNicholl, O’Leary and Pow 2018). A survey was conducted in Northern Ireland at the time of the referendum by Ipsos MORI that was commissioned by the ‘Northern Ireland Assembly Election Study’ project at Queen’s University Belfast (Garry 2016, as cited in Garry, Coakley and O’Leary 2017). According to the survey, respondents who voted to leave the EU were 15% of Catholics, 60% of Protestants, 12% of self-described nationalists, 66% of self-described unionists, 30% of neither self-described nationalists nor unionists, 13% of self-described Irish, 63% of self-described British, 36%

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of self-described Northern Irish, and 70% of self-described Ulster (Garry 2016). There is a clear correlation between the percentages of self-described Protestants, unionists, and British; and self-described Catholics, nationalists, and Irish. Protestant, unionist, and British identifiers most likely voted in alignment with the possibility of the other regions in Britain, particularly England, voting to leave the EU. Catholic, nationalist, and Irish identifiers most likely voted in alignment with the Republic of Ireland's ongoing membership of the EU.

Northern Ireland's left-wing nationalist political party that is also active in the Republic of Ireland, Sinn Féin, called for a referendum on Northern Ireland's reunification with the Republic of Ireland after Brexit. This was rejected by Conservative Party Member of Parliament (MP) and then-Secretary of State for Northern Ireland, Theresa Villiers (McDonald 2016). It was also opposed by Northern Ireland's pro-Brexit and right-wing Democratic Unionist Party (DUP), the largest political party in the devolved Northern Ireland Assembly (NIA) and the fifth-largest party in the House of Commons (McDonald 2017), the publicly elected lower house of the British parliament (Www.parliament.uk 2019m). Sinn Féin also called for Northern Ireland's special status within the EU, which Leader of the DUP in the House of Commons, Nigel Dodds, said "would create tariffs and barriers between Northern Ireland and our single biggest market, which is the rest of the United Kingdom. The member states of the EU would never dream of it because it would open the door to a Pandora's box of independence movements of all sorts" (McDonald 2017).

2. Methodology

2.1 Justifications

There is limited previous academic research concerning Brexit, perhaps due to its nature as a recent event with uncertain outcomes, which justifies this research. It has been relevant to conduct this research whilst decision-makers are planning Britain's eventual formal exit from the EU.

Sustainable peacekeeping is of global importance, and Brexit may impact the continuous instability and the subsequent ongoing Northern Ireland peace process. I concentrate specifically on the Northern Ireland peace process in order to connect the research to my Master's degree in Peace, Mediation and Conflict Research. Additionally, this research provides me with the opportunity to reflect on what I have learnt during this degree, particularly about the conflict in Northern Ireland.

2.2 Limitations

Reducing the scale of the research could be considered a limitation because it may remove important information from the research, possibly in an impartial manner. For example, some online media outlets are only fully accessible through a paid subscription, which in some cases, meant that I could only read the first few paragraphs of an article. Creating a specific time frame could be considered restrictive because movements are not always limited to specific time frames. Opinions differ on whether or when there are specific beginnings, middles, and ends of events and processes. However, reducing the scale of the research is necessary to conduct feasible research. Therefore, the time frame for this research starts from the suspension of the NIA on 9th January 2017 and ends on 29th March 2019, when Britain was expected to formally withdraw from the EU, notwithstanding the postponement of Britain's withdrawal on 21st March 2019 due to the extension of Article 50 of the Treaty on European Union (TEU).

2.3 Research design

This research consists of a chronological analysis of the Brexit negotiations and the Northern Ireland peace process in the media. It is extremely complex to research the impact of something that is ongoing and yet to happen as well as to conduct an in-depth analysis of draft policies that are continuously changing. Therefore, I consider the different opinions presented by English, Northern Irish, and Irish media regarding the role of the Northern Ireland peace process in the Brexit negotiations. Online media are becoming more prominent and influential in political discussions, but are often overlooked in academia. They perhaps reflect the ideas of the general population to a

greater extent than academic texts. Nevertheless, I relate the media analysis to literature in the fields of peace studies and media studies. I also cite online media outlets from different countries; social media posts; publications by universities, academic journals, and research organisations, and charities; and reports and policy documents of the EU, the British government and parliament, the NIA, and the Irish government.

2.4 Ethical considerations

I am a British citizen who is currently living and studying in Finland. The news of Brexit left me with feelings of uncertainty regarding my residence in Finland and my aspirations for a career in an international institution such as the EU. I would like to remain in Finland after completing my Master's degree because I hope to start a family with my Finnish partner within the next few years. I think that Finland would be the best country for us to do so because I consider the Finnish welfare and education systems to be better than the British systems. I would also like to become a Finnish citizen and get an EU passport after Brexit. If somebody of another nationality were to conduct this research, they would mostly likely have a different perspective and the outcome of the research would not be the same.

I dealt with potential impartiality firstly by acknowledging it. Bias can already be implicitly evident in how the researcher demonstrates what they consider important and why, such as through determining the research objective (Collier and Mahoney 1996). It can be considered more honest to be open about one's own background rather than trying to hide it (Noble and Smith 2015). Therefore, the researcher is responsible for determining the level of objectivity of research as well as the reader. Secondly, to counterbalance potential impartiality as well as to determine realistic research objectives, I framed the topic of Brexit through the perspective of the Northern Ireland peace process. I don't have connections to Northern Ireland or the Republic of Ireland and I have not had the opportunity to visit either, and therefore they do not evoke strong feelings for me.

Thirdly, I made a significant effort to search for and use of sources of information that offer different perspectives and opposing views. For example, I followed the BrexitCentral website, which provides daily Brexit updates by collating a range of articles from different online media outlets on one webpage, and appeared to be the only website doing so. The website is clearly pro-Brexit, as it states, "we believe that the vote to reject the costs and bureaucracy of the EU and take back control over our laws and our cash was a positive move and we remain unapologetically

optimistic about Britain's future as an independent, free-trading, global-facing sovereign nation" (BrexitCentral 2019). Moreover, in my email correspondence with BrexitCentral in which I asked BrexitCentral it was established and whether there are any sites that they consider competitors, an editor replied that "the so-called People's Vote campaign also do a daily email promoting their campaign for another referendum to reverse Brexit" (Isaby 2019).

BrexitCentral appears to be biased towards The Telegraph. Therefore, I use a significant number of articles from The Telegraph in this research that I found through BrexitCentral. However, BrexitCentral also incorporates articles from pro-EU online media outlets in its daily updates, albeit to a lesser extent than pro-Brexit articles. It also selectively collates certain excerpts of articles and sometimes omits words from them, presumably for practical reasons, although this could also be perceived as an attempt to promote its editors' beliefs. Nevertheless, it does provide links to the full articles, although they occasionally led to the wrong article by the same online media outlet that was mentioned. I later discovered Independence Daily (2019), which also provides daily Brexit updates by collating a range of articles from different online media outlets on one page, although I found this less useful than BrexitCentral as the articles were organised by the online media outlets that published them, whereas BrexitCentral organised the articles by topic.

My search for and use of sources of information that offer different perspectives and opposing views is also illustrated in Table 1 on page 7, which shows the names of the British and Irish online media outlets used in this research, and their position on the EU and Brexit according to my reading experience and the ratings of political affiliation by Media Bias/Fact Check (2019a), an independent online media outlet. Table 1 also shows how many times articles from these online media outlets are included in the list of references. In order to counterbalance potential impartiality, I intended to include in the list of references more articles from pro-Brexit than pro-EU online media outlets or at least the same number of articles from pro-Brexit and pro-EU online media outlets. I use the words 'pro-Brexit' and 'pro-EU' rather than words with negative connotations that can influence the reader, such as 'anti-Brexit' or 'anti-EU'.

2.5 Table 1: British and Irish online media outlets used in this research

	Pro-Brexit online media outlets	How many articles are included in the list of references	Least biased or neutral online media outlets	How many articles are included in the list of references	Pro-EU online media outlets	How many articles are included in the list of references	
	ConservativeHome	8	PoliticsHome	10	BBC News	27	
	ITV News	8	Reuters	52	Channel 4 News	1	
	The Belfast News Letter	2	RTÉ	6	Government Europa	1	
	The Daily Mail	11	The Belfast Telegraph	13	indy100	1	
	The Evening Standard	2	The Economist	2	iNews	3	
	The Express	20	The Financial Times	13	Metro	1	
	The Irish Independent	3	The Irish Examiner	1	Sky News	4	
	The Spectator	5	TheJournal.ie	2	The Guardian	36	
	The Sun	22			The Huffington Post	2	
	The Telegraph	60			The Independent	12	
	The Times	26			The Irish News	2	
					The Irish Times	19	
					The Mirror	2	
					The New European	3	
Total		167		99		114	380

The online media outlets that the Independent Press Standards Organisation (2017) (ISPO) received the ten respective highest number of complaints from in 2017 were The Sun (4847), The Daily Mail (4176), MailOnline (3536), Metro (1500), The Mail on Sunday (1452), The Times (598), Telegraph.co.uk (480), Thesun.co.uk (327), The Daily Telegraph (232), and Express.co.uk (227). According to Media Bias/Fact Check (2019a), The Mirror, The Express, The Sun, The Spectator, and The Telegraph are publishers of mixed factual news. The former is rated as having strong left-wing bias and the latter four are rated as having strong right-wing bias.

Media Bias/Fact Check (2019a) claims that these online media outlets are biased “through story selection and/or political affiliation. They may utilise strong loaded words (wording that attempts to influence an audience by using appeal to emotion or stereotypes), publish misleading reports and omit reporting of information that may damage” respective liberal or conservative causes and concludes that “some sources in this category may be untrustworthy”. BrexitCentral itself was also rated as having strong right-wing bias and being a publisher of mixed factual news (Media Bias/Fact Check 2019b). Although Media Bias/Fact Check (2019a) rated The Huffington Post as a publisher of high factual news, it also rated it as having strong left-wing bias.

Media Bias/Fact Check (2019c) rates The Daily Mail as a questionable source as a result of extreme bias and the consistent promotion of propaganda and conspiracies. All other online media outlets listed above were rated as more moderate in their bias and as publishers of high or very high factual news, except those that didn’t have any search results, perhaps due to their limited readership. These were ConservativeHome, The Belfast News Letter, PoliticsHome, The Irish Examiner, The Belfast Telegraph, Channel 4 News, Government Europa, indy100, The Irish News, and The New European.

In the analysis, I consider media bias by cautiously limiting my use of sources from the aforementioned most extreme online media outlets with the strongest bias and mixed factual news, particularly The Daily Mail. In my experience, Reuters was perhaps the most neutral and easily accessible online media outlet because it appeared to avoid using an excessive amount of emotive language, text written in uppercase letters, photos and images, and advertising; and it was fully accessible without a paid subscription. Its articles were usually short in length, perhaps because of their lesser use of emotive language, and perhaps because they didn’t repeat the same points using different wording, as was the case in the articles of many other online media outlets.

3. The peace process in Northern Ireland

The Northern Ireland civil rights movement for equal rights occurred from 1967 until 1972 due to inequality and discrimination against Catholics. Subsequent resistance by unionists led to civil unrest and the continuation of the conflict in Northern Ireland during the Troubles, when unionists and nationalists fought over Northern Ireland's constitutional status as part of the UK (BBC 2012). In 1972, in attempt to resolve the conflict, the system of direct rule was introduced under the terms of the UK's Northern Ireland (Temporary Provisions) Act, which suspended the Parliament of Northern Ireland, also known as the Stormont, and Northern Ireland was directly ruled from Westminster, an area of central London where the British parliament meets, until the establishment of the NIA in 1999 under the GFA (Swinford 2019d). The Stormont was formally abolished under the Northern Ireland Constitution Act 1973. Since direct rule, unionists have supported full integration into the British political system, whereas nationalists support Irish self-determination (Féron 2017). The British government attempted to establish a new parliament, the NIA, in 1973 and 1982, but this was resisted by unionists. Major policy was determined by the British Government's Northern Ireland Office (NIO) under the direction of the Secretary of State for Northern Ireland.

Eventually, the 1996 peace talks led to the signing of the GFA on 10th April 1998 after several years of negotiation. Later that year, the 1998 Northern Ireland Act of the Parliament of the United Kingdom established a devolved legislature for the NIA. 71% of Northern Ireland supported the GFA, with more support from the nationalists. 94% of the Republic of Ireland supported the GFA. It has the status of both an international treaty between the UK and Ireland as well as an agreement of the parties within Northern Ireland. The 1998 Nineteenth Amendment of the Constitution Act amended the Constitution of Ireland in order to bind the Republic of Ireland by the GFA. This also enabled the establishment of shared political institutions between Northern Ireland and the Republic of Ireland. The GFA incorporated five main constitutional provisions: Northern Ireland's self-determination of its own constitutional status; Northern Ireland's position remaining within the UK; the right to Irish and/or British nationality for the people of Northern Ireland; the removal of the Republic of Ireland's territorial claim to Northern Ireland; and the principle of consent, namely Northern Ireland's ability to vote for a united Ireland with the consent of a majority. Subsequently, Irish nationalists now generally support the concept of an independent and united Ireland achieved by non-violent means (Féron 2017).

4. The role of the EU in the Northern Ireland peace process

Northern Ireland's vote for Britain to remain in the EU was influenced by concerns of a strengthened border between Northern Ireland and the Republic of Ireland that could threaten the GFA and the Northern Ireland peace process (Fenton 2017). According to Féron (2017), the island of Ireland's North-South border dialogue returned to the political forefront in Northern Ireland after Brexit. When Northern Ireland leaves the EU as part of the UK, its consequences are unpredictable. According to Tonge (2017), risks to peace are minimal, but enough to encourage Northern Ireland's special status. However, it could then be questioned as to why Scotland and Gibraltar would not get a special status, as the majority of those territories also voted to remain.

4.1 EU funding for the Northern Ireland peace process

According to Haase (2018, p.1), "the peace process in Northern Ireland has been receiving financial support from the EU since 1989, through both EU regional policy and EU contributions to the International Fund for Ireland (IFI)". Three PEACE programmes between 1995 and 2014 amounted to a financial contribution of €1.3 billion euros, and the PEACE IV programme from 2014 to 2020 has been assigned €270 million euros (Haase 2018). These have been used for projects that support victims of the conflict, encourage the development of relations between Catholic and Protestant communities, and help former militants from both sides find work (Graham 2017a).

"European Territorial Cooperation (ETC), better known as Interreg, is one of the two goals of cohesion policy and provides a framework for the implementation of joint actions and policy exchanges between national, regional and local actors from different Member States" (European Commission 2019a). According to Interreg (2019), "the €283m INTERREG VA Programme is one of 60 similar funding programmes across the European Union that have been designed to help overcome the issues that arise from the existence of a border. These issues range from access to transport, health and social care services, environmental issues and enterprise development". The European Regional Development Fund (ERDF) has funded the entire PEACE III programme from 2007 to 2013, 85% of the PEACE IV programme, and 85% of the INTERREG VA programme. The remaining funding usually originates from non-EU sources, which may include national, regional, and local government funding (Haase 2018; Interreg 2019).

Some consider the PEACE programme's fourth round from 2014 to 2020 to be in jeopardy. This is due to the possibility of Britain no longer being under the jurisdiction of the European Court of

Justice (ECJ) after Brexit. As the PEACE programme is governed by an EU regulation, it's under the jurisdiction of the ECJ, which oversees reconciliation grants (Doward 2017; BBC News 2017d). Former Secretary of State for Northern Ireland, Peter Hain, said "ministers themselves say the UK should remain part of the PEACE Programme. But they have not faced up to the reality that this cannot be squared with their policy of leaving the jurisdiction of the ECJ" (Doward 2017; BBC News 2017d). He added "it would be the height of irresponsibility for the Government to look a gift horse in the mouth and give that funding up because of their obsession with the ECJ" (BBC News 2017d). According to Doward (2017), "unless the government changes its position and recognises the authority of the court in this instance, Northern Ireland will no longer be able to benefit from the current programme. And, by implication, any further rounds of funding from it would no longer be possible".

Ruohomäki (2017) claims that the EU often tends to perceive conflicts as linear without a concrete start and end time. According to Féron (2016), peacekeepers leaving an area that has become dependent on them can render previous attempts at resolutions unsustainable and result in a return to conflict. However, it is unlikely that the EU would take any unnecessary risks regarding the Northern Ireland peace process, since maintaining peace is one of the principal values that it was founded upon and an internal conflict zone wouldn't be in its interest. Moreover, Norway and Switzerland are two countries that receive peace programme funding and are not bound by the ECJ (Doward 2017).

On 16th August 2017, Theresa May said "we want the EU funding that has helped victims of the Troubles and cross-community groups to continue at least until the current programme finishes. We then want to go further, and explore a potential future programme of peace funding after we leave the EU" (Graham 2017a). However, Britain is unlikely to be able to maintain the expertise and cooperation at the same level as the EU has. Some argue that saving money from Britain's EU membership fees would outweigh the EU's funding for initiatives in Britain such as the PEACE and INTERREG programmes. However, the British government hasn't said that it will directly replace the funding for such programmes, and peace programmes in Northern Ireland will compete with other budgetary concerns (Graham 2017a).

4.2 The border between Northern Ireland and the Republic of Ireland

The impact that Brexit will have on the border between Northern Ireland and the Republic of Ireland is controversial because it will become an external EU border. Potential impacts of Brexit on the Irish border between Northern Ireland and the Republic of Ireland relate to the GFA, the economy, trade, customs, and immigration checks to be put in place at the border (Doyle 2017). An international border previously existed between Britain and the Irish Free State established in 1922 under the 1921 Anglo-Irish Treaty. Trade was subject to tax and tariffs, customs were established at border crossings, and all traffic was subject to inspection. However, passport checks were not applied because Northern Ireland and the Republic of Ireland were part of the Common Travel Area (CTA). This is an open borders area that was established in 1923 comprising the UK, Ireland, the Isle of Man, and the Channel Islands. There is freedom of movement for all EU nationals within the CTA and between Britain and the Republic of Ireland, and there are no customs or fixed immigration controls at the border.

During the Troubles in Northern Ireland, there were British military checkpoints on main border crossings and some of the remaining crossings were blocked by British security forces. In 1973, both Britain and the Republic of Ireland joined the EU along with the European Union Customs Union (EUCU). Some consider the freedom of movement provisions arising from membership of the EU to supersede the CTA. Checks on goods between Northern Ireland and the Republic of Ireland were phased out after the establishment of the ESM in 1993. In 2005, the last of the border checkpoints was removed through the implementation of the GFA (Lee 2017; House of Commons Northern Ireland Affairs Committee 2018).

Since the implementation of the GFA, the border has been perceived as being almost invisible due to minimal physical infrastructure (House of Commons Northern Ireland Affairs Committee 2018). According to the Irish government, the invisible border on the island of Ireland is “the most tangible symbol of the peace process” (MerrionStreet.ie 2017, p.22, as cited in GOV.UK 2017d, p.12).

Reader in Sociology at Queen’s University Belfast and Fellow in the Senator George J. Mitchell Institute for Global Peace, Security and Justice; Katy Hayward; researched views on Brexit in local communities in one border region; and claimed that “they see the increasing openness of the border in the past two decades - and the economic and social benefits of that - as being entirely a consequence of the 1998 Agreement” (Campbell 2019b). Chief Constable of the Police Service of Northern Ireland, George Hamilton, said that “if you put up significant physical infrastructure at a

border, which is the subject of contention politically, you are re-emphasising the context and the causes of the conflict. So, that creates tensions and challenges and questions around people's identity, which in some ways the Good Friday Agreement helped to deal with" (Campbell 2019b).

Campbell (2019b) claims that the GFA only refers to physical infrastructure at the border in paragraph 2 in section 8 on security, in which it states that "the British Government will make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland" through "the removal of security installations" (Department of Foreign Affairs and Trade 1998, p.25, as cited in Campbell 2019b). However, the return of physical infrastructure on the border after Brexit could complicate the North/South Ministerial Council (NSMC)'s overseeing of 12 areas of cooperation under paragraph 8 of strand two of the GFA (Department of Foreign Affairs and Trade 1998, as cited in Campbell 2019b).

Moreover, physical infrastructure at the border could "conflict with the spirit" (Campbell 2019b) of "tackling the problems of a divided society and social cohesion in urban, rural and border areas" under, paragraph 2(i) in the chapter on Economic, Social and Cultural Issues in section 6 of the GFA (Department of Foreign Affairs and Trade 1998, p.23, as cited in Campbell 2019b). The DUP claim that the real threat to the spirit of the GFA would be the imposition of the backstop solution that was developed to avoid a hard border between Northern Ireland and the Republic of Ireland. According to the backstop solution, Northern Ireland would remain in the EUCU and the ESM in order to prevent the need for border checks until the establishment of alternative arrangements.

According to George Mitchell, who was active in the Northern Ireland peace process and served as the United States Special Envoy for Northern Ireland, crossing the border more easily reduces the stereotyping and denigration that previously existed between Northern Ireland and the Republic of Ireland (The Belfast Telegraph 2018b). On the other hand, Patterson (2017), who spoke to locals in Northern Ireland, wrote about one woman who previously went to the Republic of Ireland "all the time, "just to be contrary". Now it's easier, she doesn't go at all". The Irish Times (2019c) brings attention to the history of the border between Northern Ireland and the Republic of Ireland through "Brexit Borderlands", which is "a volume of information that traces the lives lost in the Troubles, the border crossings and the stories of tragedy and loss linked with many of them" (Hennessy 2019). Hennessy (2019; BBC News 2016) claims that "despite what some in the United Kingdom believe now, the warnings about the implications that Brexit could have on the border were given

before UK voters went to the polls in June 2016, not least by the then Taoiseach Enda Kenny in London in January 2016 after a meeting in Downing Street with David Cameron”, the former Conservative Party MP and British Prime Minister, although some Conservative Party and DUP MPs criticised this, believing that it was scaremongering.

It was argued that Brexit might lead to the return of a hard border between Northern Ireland and the Republic of Ireland since Britain and the EU need to control their borders for customs purposes. This could be a return to the state of affairs before Britain and the Republic of Ireland joined the EU in 1973, with a customs infrastructure and fewer crossing posts that are more controlled (Robertson 2018). Consequently, it has been “advised that a new Anglo-Irish Treaty would be necessary to formalise the CTA after Brexit” (Emerson 2018) in order to ensure the ongoing freedom of movement between Northern Ireland and the Republic of Ireland.

Both Britain and the EU agreed that a hard border would be a poor outcome and should be avoided if possible, particularly due to the sensitive nature of the border. British and Irish authorities, leadership, and politicians have assured that Brexit will not result in the return of a hard border and commitment to the GFA will be maintained (Millar 2017; GOV.UK 2017d; Lyons 2017; Keena 2016; McDonald 2016). However, some believe that Ireland would have the hardest border in Europe in the event of a no-deal Brexit (Murray 2018a; Scally 2017). Moreover, there were speculations that a customs and regulatory border could be formed in the Irish Sea between the island of Ireland and the rest of Britain, although this could break up Britain’s common market (Lis 2018; The Belfast Telegraph 2017b; McKinney 2018).

4.3 The 1998 Good Friday Agreement

Some argue that Britain leaving the EU and subsequently creating a border control system between Northern Ireland and the Republic of Ireland could jeopardise the GFA.

According to Moltmann (2017, p.3):

The impending Brexit has paralysed the disintegrating peace process. It has also reprioritised the issue of the border between Northern Ireland and the Republic of Ireland, which the Brexit will transform into an external border between the United Kingdom and the EU. Thereafter, cross-border movement of persons, goods and services will have to be controlled, effectively destroying a fundamental advantage of the peace process in which the border disappeared from everyday life. The basic principles of the peace agreement have been undermined.

Humphries (2017) claims that “the burden of preserving its fragile 1998 peace accord amidst the fallout of Britain’s exit from the European Union will fall to a new untested generation” in Northern Ireland and that “hopes rose that a new political generation reared in peacetime would make compromise easier”. However, some feel that cooperation has deteriorated since Ian Paisley’s retirement (Humphries 2017) on 25th March 2011 and death on 12th September 2014, the former First Minister of Northern Ireland and Leader of the DUP who developed an amicable partnership with Martin McGuinness, the former deputy First Minister of Northern Ireland and Leader of Sinn Féin in Northern Ireland who died on 21st March 2017 shortly after his resignation as deputy First Minister of Northern Ireland on 9th January 2017. Moreover, some claim that the shock and uncertainty after the election was exacerbated by “overly positive media coverage of McGuinness’ life” (Humphries 2017) because he was a former leader of the Provisional Irish Republican Army (PIRA) and died on 21st March 2017.

George Mitchell claims that those who are concerned about Brexit are exploiting the GFA to scaremonger (The Belfast Telegraph 2018b). However, as previously mentioned, one of the GFA’s five main constitutional provisions is the ability to vote for a united Ireland with the consent of a majority in Northern Ireland. Unionists have expressed concern about the referendum on Northern Ireland reunifying with the Republic of Ireland that was suggested (McDonald 2018) immediately after the result of Britain’s referendum on EU membership (Fenton 2016; Houeix 2018) and even before the referendum (Halpin 2016). On 29th April 2017, the European Council agreed that Northern Ireland could rejoin the EU in the event of reunification with the Republic of Ireland (Coyne 2017). Daniel Hannan (2019a) compared the Republic of Ireland “discussing mechanisms to ensure that the interests of “the North” are formally upheld” to Greek Cypriots representing Turkish Cypriots in EU institutions.

Brexit could require the deletion of references to the EU within the GFA, including the EU’s financing of the Northern Ireland peace process (Tonge 2017). The GFA refers to the UK and the Republic of Ireland as “partners in the European Union” (House of Lords 2018; European Parliament Directorate for Citizens’ Rights and Constitutional Affairs Policy Department for Citizens’ Rights and Constitutional Affairs 2017; Department of Foreign Affairs and Trade 1998). According to Campbell (2019b), there are no specific commitments about what “partners in the European Union” should involve regarding the border. Moreover, the GFA presents safeguards to ensure Northern Ireland’s participation in the European Convention on Human Rights (ECHR) as

well as Northern Ireland's access to the European Court of Human Rights (ECtHR), although these are under the Council of Europe. The GFA also ensures the Government of Ireland's reinforcement of human rights protection drawing on the ECHR (Department of Foreign Affairs and Trade 1998).

Under the GFA, the 1998 Human Rights Act of Parliament of the United Kingdom incorporated the ECHR into Britain's and subsequently Northern Ireland's domestic law. It also introduced the NIA's authority to pass legislation for Northern Ireland in devolved areas, as well as Britain's authority to render legislation null and void if in breach of the ECHR (Department of Foreign Affairs and Trade 1998; Law Society of Ireland 2018). The GFA also ensures the Northern Ireland Human Rights Commission (NIHRC)'s participation in the definition of rights in British legislation that is supplementary to the ECHR. In effect, Britain is bound to some Northern Irish legislation through the GFA, and therefore it has become part of Britain's constitutional laws. Moreover, the GFA played a significant role in preventing the 1998 Human Rights Act's replacement with the Proposed British Bill of Rights included in The Conservative Party's 2015 manifesto (The Conservative Party 2015). The proposed British Bill of Rights derived from tensions between British right-wing politicians and the ECtHR over issues such as prisoner voting (Myers 2015).

A High Court Judge in Northern Ireland, Paul Maguire, rejected arguments that the NIA must consent to the triggering of Article 50 of the TEU and he said that "while the wind of change may be about to blow, the precise direction in which it will blow cannot yet be determined so there is a level of uncertainty, as is evident from discussion about, for example, how Northern Ireland's land boundary with Ireland will be affected by actual withdrawal by the UK from the EU" (Moriarty 2016, as cited in Campbell 2019b). Victims' rights campaigner, Raymond McCord, put forward a judicial review challenge that was rejected by Paul Maguire because he thought that the British government wouldn't uphold its obligations to the victims of paramilitary violence during the Troubles conflict and he believed that the victims had a greater likelihood of getting justice with the assistance of the European Union (Moriarty 2016).

In the UK constitutional law case *R (Miller) v Secretary of State for Exiting the European Union* (2017) that was ruled on 24th January 2017, it was argued that the consent of Northern Ireland's voters was required to leave the EU according to the GFA. However, the UK Supreme Court unanimously found that neither the GFA nor the 1998 Northern Ireland Act legally required the consent of the NIA to trigger Article 50 of the TEU, through which any EU member state may

decide to withdraw from the EU. Nevertheless, perhaps this played a role in bringing the impact of Brexit on the GFA and subsequently the island of Ireland to the forefront of media discussions.

The Treaty of Lisbon “retains most of the content of the proposed EU Constitution” and “amends the Treaty on European Union (TEU) and the Treaty establishing the European Community (TEC)” (Bonde 2009, p.3), According to Article 4(2) of the Treaty of Lisbon, the EU shall ensure “the territorial integrity” (Bonde 2009, p.16) of its member states. Therefore, some claim that separate negotiations between the EU and the British regions that voted to remain would violate the Treaty of Lisbon. David Cameron said that the Brexit negotiations “will need to involve the full engagement of the Scottish, Welsh and Northern Ireland governments to ensure that the interests of all parts of our United Kingdom are protected and advanced” (Micklethwaite 2016).

The EP published a briefing in 2017 on the impact and consequences of Brexit for Northern Ireland. It states that “the 1998 Northern Ireland Act gives the Northern Ireland Assembly the right to pass laws but only in devolved policy areas and does not affect the power of the UK Parliament to make laws for Northern Ireland” (Tonge 2017, p.1) under paragraph 5(5) (Legislation.gov.uk 1998). It also states that “the UK Supreme Court has stated categorically that the consent of the Northern Ireland Assembly is not required for the UK government to withdraw from the EU” (Tonge 2017, p.1). However, the briefing also maintains that the NIA can determine the retention of EU laws in areas in which it holds devolved powers.

5. The Northern Ireland peace process in the Brexit negotiations

5.1 The suspension of the Northern Ireland Assembly

According to the amended paragraph 16A(4) of the 1998 Northern Ireland Act, “the nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister” (Legislation.gov.uk 1998). According to paragraph 16A(5), “the nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister” (Legislation.gov.uk 1998). Therefore, the First Minister is usually a DUP Member of the Legislative Assembly (MLA) of Northern Ireland, and the deputy First Minister is usually a Sinn Féin MLA, although “the two roles are effectively a joint office, with equal power, and can only exist with the full support of the other” (B. Kelly 2019).

On 9th January 2017, the NIA was suspended due to the resignation of the then-Leader of Sinn Féin in Northern Ireland, Martin McGuinness, as deputy First Minister after almost 10 years in office. Sinn Féin didn’t replace Martin McGuinness as deputy First Minister, and subsequently, the Leader of the DUP, Arlene Foster, was removed from her role as First Minister, which collapsed the Northern Ireland Executive (NIE). Martin McGuinness resigned in protest of First Minister Arlene Foster’s refusal of an independent inquiry into the Renewable Heat Incentive (RHI), and what he claimed was her “deep-seated arrogance” (Humphries 2017). The NIE used the RHI scheme encourage the consumption of heat from renewable sources. However, it became a scandal when “flaws in setting the scheme’s subsidy rate left it open to abuse as claimants could earn more cash the more fuel they burned, with the overspend estimated to be about £490m” (Maccauley 2017).

Moreover, Sinn Féin criticised the DUP’s proposal for the withdrawal of funding for an Irish language bursary scheme, as well as the DUP’s opposition to Sinn Féin’s proposal for an Irish Language Act. The Irish Language Act would give Irish Gaelic equal status with English, which the DUP perceived as a threat to Northern Ireland’s union with Britain as well as to British identity in the region. The DUP implied that it would accept legislation that also includes the protection of Ulster Scots (B. Kelly 2019; Burke 2018) in order to avoid a stand-alone Irish Language Act. According to DUP MLA Gregory Campbell, such a measure “widens the existing gulf that exists in the provision of Irish and Ulster-Scots” (Gamble 2018). This was rejected by Sinn Féin because it claims that there are significantly less calls for Ulster Scots. For example, there are no Ulster Scots schools (Dunbar 2017). B. Kelly (2019) suggests that proposals for the greater protection and

promotion of Irish Gaelic has a more significant overall meaning, such as equal employment opportunities for unionists and nationalists.

After the Republic of Ireland approved same-sex marriage in its referendum on 22nd May 2015, the NIA voted in favour of its fifth motion regarding same-sex marriage on 2nd November 2015. Although the motion was approved by a slim majority of 50.5%, it was blocked by the DUP through a petition of concern signed by 32 MLAs (Northern Ireland Assembly 2015a; Northern Ireland Assembly 2015b; Mortimer 2015). Sinn Féin criticised the DUP's consistent vetoing of same-sex marriage by using the petition of concern in accordance with paragraph 5(d)(ii) of the 'Safeguards' section of the GFA (Sinn Féin 2017; Department of Foreign Affairs and Trade 1998). Petitions of concern are brought by a significant minority, namely 30 MLAs, in cases where a measure fails to proceed with support on a cross-community basis. "In such cases, a vote on proposed legislation will only pass if supported by a weighted majority (60%) of members voting, including at least 40% of each of the nationalist and unionist designations present and voting" (Gordon 2013, as cited in House of Commons Library 2017b).

Former Leader of the Social Democratic and Labour Party (SDLP), Mark Durkan, condemned the misuse of petitions of concern, referring to paragraphs 11, 12, and 13 of the 'Safeguards' section of the GFA (Department of Foreign Affairs and Trade 1998) that "show that the petition of concern was not meant to be played like a joker, as a reflex veto to frustrate any valid proposal" (Gordon 2013). Northern Ireland Programme Director and Head of Nations and Regions at Amnesty International UK, Patrick Corrigan, said "the misuse of the petition of concern to hold back rather than uphold the rights of a minority group will mean that the motion is formally defeated" (Mortimer 2015). According to B. Kelly (2019), "other parties have also misused this mechanism in the past, but when considered in its correct usage, it may prove to be too crucial to be removed altogether".

Due to the suspension of the NIA as a result of Sinn Féin not replacing Martin McGuinness as deputy First Minister in protest of the RHI scandal and the subsequent collapse of the NIE, then-Secretary of State for Northern Ireland, James Brokenshire, called elections on 2nd March 2017 (B. Kelly 2019), which "narrowed the gap between the DUP and Sinn Féin from 10 seats to one" (Patterson 2017; Humphries 2017; Graham 2017b). The DUP came first and Sinn Féin came second, as they have done "in all five assembly elections of the 21st century" (The Guardian 2017;

Graham 2017b). However, for the first time since the partition of Ireland in 1921, the two main nationalist parties, Sinn Féin and the SDLP, gained more seats than the two main unionist parties, the DUP and the Ulster Unionist Party (UUP) (The Guardian 2017; Whiting 2017; Humphries 2017; Graham 2017b; Rallings and Thrasher 2017).

Brexit was a major topic in the NIA elections. The DUP supported Britain leaving the EU, which some considered disrespectful towards nationalists and misrepresentative of Northern Ireland's vote to remain in the EU (The Guardian 2017). Graham (2017b) claimed that Sinn Féin "benefited most from the highest turnout in two decades", perhaps because Arlene Foster "angered nationalists and made sure they went out to vote". Some considered that the 40-year-old Leader of Sinn Féin in Northern Ireland since 23rd January 2017, Michelle O'Neill, who later became the Deputy Leader of Sinn Féin in the Republic of Ireland on 10th February 2018 "represented a generational shift" and was "a much more acceptable nationalist face than previously" (Graham 2017b).

According to Féron (2017), the constitutional issue of unionists supporting the union with Britain and nationalists supporting Irish self-determination and Northern Ireland's reunification with the Republic of Ireland tends to dominate elections in Northern Ireland and result in static political allegiances. As unionism no longer held an overall majority in the NIA, the DUP no longer had enough MLAs to unilaterally use a petition of concern (House of Commons Library 2017b). Director at the University of Liverpool's Institute of Irish Studies, Peter Shirlow, said that "the massive shift towards nationalism in this election completely changes the landscape and most certainly brings the constitutional question to the foreground" (Graham 2017b). According to Graham (2017b), the result of the election "could have dramatic implications for the politics and constitutional status of the British province" and "risk paralysing government, dividing communities and creating an unwelcome distraction for Prime Minister Theresa May as she prepares to launch Britain's formal divorce proceedings from the European Union".

On 22nd March 2017, the then-Leader of Sinn Féin in the Republic of Ireland, Gerry Adams, said that Sinn Féin would block any extension of the deadline of 27th March 2017 to form the NIE and any attempt to return to British direct rule of Northern Ireland (Humphries 2017) "for the first time since 2007" (Graham 2017b). Graham (2017b) reported that "with relations at their lowest point in a decade and Sinn Féin [sic] insisting among its conditions that DUP leader Arlene Foster step aside before it will re-enter government, few analysts think an agreement can be reached in that time".

DUP Chief Whip in the House of Commons, Jeffrey Donaldson, said that if the NIE wasn't formed by the deadline of 27th March 2017, this could lead to a prolonged period of British direct rule, and "in those circumstances, with Brexit coming down the road, we won't have our own administration to speak for us and offer the best prospect of delivering the kind of outcome we need" (Graham 2017b).

The NIE wasn't formed by 27th March 2017, and therefore, James Brokenshire repeatedly extended it. Attempts to restore power-sharing and the NIE through an agreement between the DUP and Sinn Féin failed due to ongoing disagreements regarding petitions of concern and, most prominently, the Irish Language Act (B. Kelly 2019; Beesley 2017). This led to concerns about the potential return of British direct rule in Northern Ireland, which, according to B. Kelly (2019) would be "be a major setback for the province, and for cross-community reconciliation. Under section 1 of the 2000 Northern Ireland Act (Legislation.gov.uk 2000), the British government was previously able to implement direct rule by suspending the devolved government in Northern Ireland.

The 2006 St Andrews Agreement (GOV.UK 2006) devolved further powers to the NIE, and under paragraph 14, repealed the 2000 Northern Ireland Act. Therefore, according to BBC News (2018g), "direct rule can only be implemented if the UK government passes a law through the UK Parliament". "Since Sinn Féin abstain from taking their seats at Westminster, direct rule would leave Northern Ireland solely represented by 10 DUP MPs in the House of Commons" (B. Kelly 2019). Moreover, the DUP opposes same-sex marriage and abortion, both of which are already legal across the rest of Britain, and could be implemented after direct rule. Therefore, direct rule is desirable neither for the DUP nor for Sinn Féin.

In Britain's general election to the House of Commons that was held on 8th June 2017, the DUP and Sinn Féin together gained of 65.4% of the vote, which was the highest proportion for both parties since 1970 (Rallings and Thrasher 2017). It was the first time since the partition of Ireland in 1921 that the unionist parties had less than 50% of the vote, but they still had a higher percentage of the vote than the nationalist parties (Rallings and Thrasher 2017). The snap general election was a surprise to many because Theresa May had previously said that she wouldn't "capitalise on her healthy poll ratings" and call a snap general election, but changed her mind in order to "strengthen her hand in Brexit negotiations" and prevent the main opposition Labour Party, the Scottish National Party (SNP), and the Liberal Democrats from trying to "destabilise and frustrate the

process in Parliament” (BBC News 2017f). However, the snap general election led to a hung parliament, when no party has a majority of MPs (House of Commons Library 2017a), because the governing Conservative Party lost its majority.

The Conservative Party established a confidence and supply agreement with the DUP on 26th June 2017. According to this agreement, the DUP agreed to support the government “on all motions of confidence; and on the Queen’s speech; the Budget, finance bills; money bills, supply and appropriation legislation and Estimates” as well as “on legislation pertaining to the United Kingdom’s exit from the European Union; and legislation pertaining to national security” (GOV.UK 2017e, p.1), for which the DUP secured more than £1 billion pounds in extra funding for Northern Ireland (The Belfast Telegraph 2019d). Due to Theresa May’s subsequent dependency on the DUP for her “working majority of 13 in the 650-seat House of Commons” (Faulconbridge 2017; Blitz, Mance and Barker 2019), her options became more limited in negotiations regarding the border between Northern Ireland and the Republic of Ireland.

On 1st November 2017, it was reported that the British government would impose a 2017-2018 budget on Northern Ireland as it was concluded that power-sharing and the NIE wouldn’t be restored “within a timetable to pass a budget by the end of November, which is the point at which we and the Northern Ireland Civil Service [sic] assess that Northern Ireland will begin to run out of resources” (Beesley 2017). James Brokenshire claimed that this didn’t imply the return of British direct rule in Northern Ireland, and suggested that the circumstances should be reflected by MLAs’ salaries (Beesley 2017). Britain’s imposition of a 2017-2018 budget on Northern Ireland was reportedly not expected include allocations from the £1 billion pounds in extra funding for Northern Ireland that was secured through the confidence and supply agreement between the Conservative Party and the DUP on 26th June 2017 (Beesley 2017; The Belfast Telegraph 2019d; GOV.UK 2017e).

Although Britain introduced some emergency budget legislation for Northern Ireland on 28th February 2019 (Www.parliament.uk 2019h), it was still functioning on limited resources. Northern Ireland held “the world record for the longest period without a sitting government, which it passed after 589 days” (B. Kelly 2019). It can therefore be argued that this limited Northern Ireland’s contribution to the Brexit negotiations. Some argue that Sinn Féin would have been better represented if their 7 MPs hadn’t abstained from participating in sittings at the House of Commons

(Www.parliament.uk 2019l). Some suggest that both Britain and Northern Ireland were waiting to see the outcome of Brexit before resuming attempts to restore power-sharing and the NIE, after which Northern Ireland may already start experiencing the effects of Brexit on its domestic politics.

Moltmann (2017, p.3) claims that:

The fact that starting in 2007, state institutions managed to function for ten years under the unionist-nationalist executive imposed by the Belfast Agreement was construed as success. Then, in January 2017, following an election marathon between 2015 and 2017 that polarised the two camps, the power-sharing arrangement collapsed. Since then, Northern Ireland has had no functioning legislative assembly or administration. Even worse, the country is again being governed by London, and Northern Ireland has no say in the Brexit negotiations.

Sinn Féin called for a referendum on Northern Ireland's reunification with the Republic of Ireland to be held in the event of a no-deal Brexit (B. Kelly 2019; Humphries 2017; Graham 2017b; Campbell 2019b). B. Kelly (2019) claimed that polls show that a majority of people could vote in favour of Northern Ireland's reunification with the Republic of Ireland. Sinn Féin MLA and former Minister for Finance, Máirtín Ó Muilleoir, "described Brexit as "the gift that keeps on giving" for those that want a united Ireland" (Graham 2017b). However, in a survey of the attitudes of a representative sample of the Northern Ireland population conducted by Ipsos MORI in 2018 that was commissioned by Garry, McNicholl, O'Leary and Pow (2018), if there was a referendum on Northern Ireland's reunification with the Republic of Ireland, 21.1% of all respondents, 3.6% of Protestant respondents, and 42.4% of Catholic respondents said that they would vote for reunification. 50.3% of all respondents said that they would vote for Northern Ireland to remain in the UK, 9.7% of all respondents said that they wouldn't vote, and 18.9% of all respondents said that they don't know.

5.2 The EU's and Britain's priorities and guidelines for the Brexit negotiations

On 17th January 2017, Theresa May set out "the 12 priorities that the UK government will use to negotiate Brexit"; the second of which was to end the jurisdiction of the ECJ, which oversees reconciliation grants including the PEACE programme, in Britain; and the fourth of which was to maintain the CTA with the Republic of Ireland (GOV.UK 2017h). These twelve guiding principles were later set out as part of Britain's negotiating policy in a white paper published on 2nd February 2017 (GOV.UK 2017g). Moreover, the Conservative Party's 2017 manifesto also states that "we will maintain the Common Travel Area and maintain as frictionless a border as possible for people,

goods and services between Northern Ireland and the Republic of Ireland” (The Conservative Party 2017, p.36). On 29th March 2017, Britain invoked Article 50 of the TEU, which began its withdrawal process from the EU.

Theresa May’s formal letter of notification to the President of the European Council, Donald Tusk, acknowledged the importance of the Northern Ireland peace process, the GFA, and the maintenance of the CTA; and recognised that the Republic of Ireland is the only EU member state with a land border with Britain (GOV.UK 2017f). The period for negotiation according to Article 50(3) of the TEU is until the date of entry into force of the withdrawal agreement in accordance with Article 50(2) of the TEU, when EU law ceases to apply to the member state concerned, or two years after invocation, unless an extension is unanimously agreed between the European Council and the member state concerned (Bonde 2009). Therefore, Britain was expected to formally withdraw from the EU on or potentially after 29th March 2019 at 23:00 Greenwich Mean Time (GMT) (Hunt and Wheeler 2019).

The EP acknowledged the unique position of the island of Ireland in its resolution of 5th April 2017 (European Parliament 2017). On 29th April 2017, the European Council (2017b) published guidelines for Brexit negotiations that also acknowledged the importance of the Northern Ireland peace process and the GFA, and that introduced a phased approach. The EU proposed a three-phase approach for the negotiations: phase one concerning Britain’s withdrawal from the EU (June to December 2017), phase two concerning the future relationship between Britain and the EU (January to June 2018), and phase three concerning Britain’s transition from being an EU member state to being a non-EU member state (July to October 2018) (Barker and Brunsden 2017). The Brexit negotiations progressed slowly due to the political deadlock concerning the three most important areas to resolve in order to establish a withdrawal agreement between Britain and the EU, one of which was the border between Northern Ireland and the Republic of Ireland. The other two areas to resolve were Britain’s outstanding financial obligations to the EU, also known as the divorce bill; and the rights of the EU citizens living in Britain as well as British citizens living elsewhere in the EU (Hunt and Wheeler 2019).

On 19th June 2017, Conservative Party MP and the first Secretary of State for Exiting the European Union, David Davis, started the negotiations with the European Chief Negotiator for the United Kingdom Exiting the European Union, Michel Barnier, during which terms of reference were

agreed and working groups were established for the aforementioned three most important areas to resolve (BBC News 2017e; European Commission 2017b; Wwww.parliament.uk 2017; The Economist 2017). Starting the negotiations was delayed until after Britain's snap general election on 8th June 2017 (BBC News 2017g). On 20th July 2017, Michel Barnier requested that during the ensuing negotiations, Britain clarify its intentions for financial settlement, citizens' rights, Ireland, and the maintenance of the CTA (European Commission Press Release Database 2017b).

On 23rd August 2017, a paper was published regarding Britain and the EU's future partnership on enforcement and dispute resolution (GOV.UK 2017c). It stated that Britain will leave the ECJ's direct jurisdiction during a transition period that was planned after Britain was expected to formally withdraw from the EU on 29th March 2019 (GOV.UK 2017c). Lord Andrew Adonis, a member of the House of Lords, the upper house of the British parliament of which membership is by appointment or heredity (Wwww.parliament.uk 2019m), and "leading supporter" of Open Britain, a British pro-EU campaign group, described the paper as "a climbdown camouflaged in jingoistic rhetoric" (Open Britain 2017).

Conservative Party MP and then Minister of State for Courts and Justice, Dominic Raab, said that "it makes sense for the UK to keep half an eye on the case law of the EU, and for the EU to keep half an eye on the case law of the UK" (BBC News 2017c), to which Chief Brexit Coordinator in the European Parliament (EP), Guy Verhofstadt, responded on Twitter that the "ECJ must keep both eyes open to protect citizens' rights" (Verhofstadt 2017, as cited in BBC News 2017c). On 31st August 2017, the British government guaranteed that the free movement of all EU citizens across the border between Britain and the Republic of Ireland would continue through the maintenance of the CTA (Smyth 2017b).

The concern about the people of Northern Ireland's right to Irish and/or British nationality was also addressed in the British government's position paper on Northern Ireland and Ireland that was published on 16th August 2017 (GOV.UK 2017d). In the position paper, the British government also proposed nine principles and criteria for the land border, the first of which was "aiming to avoid any physical border infrastructure in either the United Kingdom or Ireland, for any purpose (including customs or agri-food checks)" (GOV.UK 2017d, p.15, paragraph 45, as cited in Graham 2017a). On the contrary, according to Graham (2017a), "the Irish government has said a British exit from the EU's customs union would likely require physical infrastructure on the border between Ireland and

Northern Ireland, a move that would anger Northern Ireland's Irish nationalists who aspire to a united Ireland".

The EU's guiding principles for the dialogue on Ireland/Northern Ireland that was published on 7th September 2017 (European Commission 2017a) "builds on the European Council guidelines" (European Commission Press Release Database 2017a) published on 29th April 2017 (European Council 2017). It presents the EU's topics of concern, namely the continuation of the CTA, the impact of a hard border on North-South cooperation between Northern Ireland and the Republic of Ireland, Britain's ongoing adherence to the GFA during and after Brexit, and Northern Irish citizens' right to Irish and/or British nationality. It states that the challenges of the Irish border are Britain's responsibility.

The EU's guiding principles for the dialogue on Ireland/Northern Ireland also acknowledges that "these challenges will require a unique solution which cannot serve to preconfigure solutions in the context of the wider discussions on the future relationship between the European Union and the United Kingdom" and perhaps also between Britain and other EU members on border and customs control matters (European Commission 2017a, p.2) After the publication of the EU's guiding principles for the dialogue on Ireland/Northern Ireland, Michel Barnier said "the UK wants the EU to suspend the application of its laws, its Customs Union, and its Single Market at what will be a new external border of the EU. And the UK wants to use Ireland as a kind of test case for the future EU-UK customs relations. This will not happen" (Smyth 2017a).

According Ireland's national public-service media organisation Radio-Television of Ireland, Raidió Teilifís Éireann, RTÉ (2017), during her speech in Florence on 22nd September 2017, to which Taoiseach Leo Varadkar, Ireland's Prime Minister, gave a "cautious welcome", Theresa May proposed a transition period of around two years. During this transition period, she ensured that "the UK will honour commitments it has made during the period of our membership" (Henley 2017) so that other EU member states wouldn't have to pay more or receive less during the budget round ending in 2020; this financial settlement was estimated to cost between €20 billion euros and €50 billion euros. On 10th November 2018, David Davis rejected the EU's proposal that Northern Ireland could remain within the EUCU (BBC News 2017a). This proposal was implied in the EU's guiding principles for the dialogue on Ireland/Northern Ireland; "in view of the unique circumstances on the island of Ireland, flexible and imaginative solutions will be required to avoid a

hard border, including any physical border infrastructure. This must be achieved in a way which ensures that Ireland's place within the Internal Market and Customs Union is unaffected" (European Commission 2017a, p.3).

Three negotiating groups covered citizens' rights, financial settlement, and other separation issues. The issues related to Northern Ireland were addressed by the Coordinators (GOV.UK 2017b). In a statement on 28th September 2017, David Davis said "the United Kingdom has committed to incorporating the final withdrawal agreement fully into UK law" (GOV.UK 2017a), but Britain and the EU couldn't agree about the role of the ECJ in protecting the rights of EU citizens living in Britain, a role that Michel Barnier described as "indispensable" (BBC 2017b). A draft withdrawal agreement was expected to be finalised on 4th December 2017, but this was delayed by the DUP accusing Leo Varadkar, who supported the withdrawal agreement, "for clearly seeking to unilaterally change" the GFA (Barker, Beesley and Parker 2017). The DUP objected to the withdrawal agreement potentially keeping Northern Ireland aligned with EU law after Brexit (Barker, Beesley and Parker 2017).

The continuation of the negotiations led to the publication of a joint report from the negotiators of the EU and the British government on 8th December 2017 (Taskforce on Article 50 2017). In the report, Britain agreed to avoid controls on the Irish border as well as to protect North-South cooperation and the GFA. Moreover, because nationality is one of the GFA's constitutional provisions, the report states that the people of Northern Ireland who are Irish citizens will be able to retain EU citizenship after Brexit due to the Republic of Ireland's membership of the EU (Taskforce on Article 50 2017; Stone 2017). These commitments were to be developed in the withdrawal agreement. Due to calls for no border in the Irish Sea from the DUP, the report guarantees that there would be none (Henley 2018; The Belfast Telegraph 2017a). Despite this, a letter from Theresa May to Arlene Foster was leaked almost one year later on 8th November 2018. It warned of the possibility of a border in the Irish Sea in the event of a no-deal Brexit (Wright and Coates 2018; BBC News 2018c)

Additionally, according to the report, "in the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement" (Taskforce on Article 50 2017, p.8, paragraph 49; Gilmore 2017). This refers to

the backstop solution, also known as the Protocol on Ireland/Northern Ireland, which aims to keep Northern Ireland in the EUCU and the ESM in order to prevent the need for border checks (Logue 2018). It was designed to come into force only in the event of no other solutions being found before Britain was expected to formally withdraw from the EU on 29th March 2019.

The backstop solution was developed to avoid a hard border between Northern Ireland and the Republic of Ireland until an alternative solution, such as a free trade agreement (FTA), would offer the same outcome (GOV.UK 2018e; Boffey, Asthana and O'Carroll 2018; Boffey and Rankin 2018b). However, some perceive the backstop solution as a threat to Northern Ireland's union with the rest of Britain, which was an ongoing issue that delayed the negotiations (Logue 2018). British Member of the European Parliament (MEP), Daniel Hannan, referred to the backstop solution as a "regulatory annexation" of part of Britain's territory (Hannan 2019b).

The topics of concern in the EU's guiding principles for the dialogue on Ireland/Northern Ireland (European Commission 2017a) had to be addressed by Britain to the satisfaction of the other 27 EU member states in order to progress to phase two of the Brexit negotiations. Phase two was to begin "as soon as the European Council decides that sufficient progress has been made in the first phase towards reaching a satisfactory agreement on the arrangements for an orderly withdrawal" (European Council 2017, paragraph 5). However, Theresa May rejected the European Commission's draft withdrawal agreement (European Commission 2018d) that was published on 28th February 2018 because it implied creating a legal and regulatory barrier between Northern Ireland and Britain (Henley 2018).

The British government hoped to establish an agreement that applies equally to Northern Ireland and the rest of Britain, thus avoiding any need for Northern Ireland to be treated differently (Wright, Waterfield, Coates and Fisher 2018; TheJournal.ie 2018). Under Article 82 of the withdrawal agreement, the ECJ would continue have jurisdiction in any proceedings involving Britain before the end of the transition period. Under Article 83 of the withdrawal agreement, if the European Commission or an EU member state considers that Britain has failed to fulfil an obligation before the end of the transition period, it may bring the matter to the ECJ.

According to the draft withdrawal agreement that was published on 19th March 2018, "text in green is agreed at negotiators' level, and will only be subject to technical legal revisions in the coming

weeks” (GOV.UK 2018e, p.1). There was “as yet no agreement on the right operational approach” to the Protocol on Ireland/Northern Ireland within the draft withdrawal agreement (GOV.UK 2018e, p.1). The Protocol was in yellow, for which “negotiators agreed on the policy objective. Drafting changes or clarifications are still required” (GOV.UK 2018e, p.1). Boffey, Asthana and O’Carroll (2018) estimated that 75% of the draft withdrawal agreement was agreed. Donald Tusk claimed that the EU would not draft a future trade agreement with Britain until it concretely addresses the issue of the Irish border (Stone 2018).

On 29th May 2018, the European Commission published a proposal (European Commission 2018c) for a new PEACE PLUS programme in the context of its long-term budget, the 2021-2027 Multiannual Financial Framework (MFF), to “continue and build on the work of previous programmes, Peace and INTERREG, between the border counties of Ireland and Northern Ireland” (paragraph 66, p.21). Theresa May was praised by some, such as Northern Irish nationalists, and criticised by others, such as Northern Irish unionists, for approving the EU’s proposal for the backstop solution to be included in the draft withdrawal agreement. Moreover, in a technical note published on 7th June 2018, the British government suggested a backstop solution through which all of Britain would remain temporarily in the EUCU rather than just Northern Ireland (GOV.UK 2018d; Campbell 2018).

On 4th July 2018, ITV News (2018b) reported that MLAs’ salaries had cost £9 million pounds since the suspension of the NIA almost 18 months earlier. ITV News (2018b) also reported that the Secretary of State for Northern Ireland, Karen Bradley, who replaced James Brokenshire on 8th January 2018, Karen Bradley, had already been considering reducing MLAs’ salaries for some months, but “was extraordinarily aware of how angry the public are about the full salaries being paid while Stormont does not function, but mindful that MLAs still work for their constituents”. After the British cabinet’s, the decision-making body composed of the Prime Minister and 21 senior government ministers, summit at Chequers, the Prime Minister’s country house, on 6th July 2018, Theresa May published a common rulebook for goods but not services (GOV.UK 2018c), which Donald Tusk said “will not work” (Wharton 2018; Herszenhorn and Gray 2018). According to the UK in a Changing Europe (2019b), considering the nature of the common rulebook, which is “an agreed area of regulations”, “the main question for British governments would be whether the EU would allow the UK any say about the formulation of those evolutions, or if it would just decide internally, leaving the UK a choice between following or abandoning the entire arrangement”.

On 8th July 2018, David Davis resigned because he didn't "believe" in Theresa May's Chequers agreement (Department for Exiting the European Union 2018) and didn't want to deliver it (BBC News 2018f). He was succeeded by Dominic Raab on the following day. The Parliamentary Under-Secretary of State for Exiting the European Union, Steve Baker, also resigned on 9th July 2019 and was succeeded by Chris Heaton-Harris. The Chequers agreement published by Theresa May on 12th July 2018 stated Britain's intention to avoid a hard border between Northern Ireland and the Republic of Ireland, ensure that the backstop solution will not have to be used, remove the need for customs checks between Britain and the EU "as if in a combined customs territory" (chapter 10. 1.2 Goods, paragraph 12.a), apply the EU's tariffs and trade policy for goods intended for the EU, and apply its own tariffs and trade policies for goods intended for Britain's domestic market (Rushton 2018).

According to the European Council's guidelines for Brexit negotiations (European Commission Press Release Database 2017c; European Council 2017), Michel Barnier condemned the Chequers agreement as "cherry-picking" the free movement of goods from the ESM's four freedoms (Boffey and Rankin 2018a), namely the free movement of people, goods, services, and capital. Whilst Michel Barnier had no objections to the principle of the backstop solution, he said "we have doubts that it can be done without putting at risk the integrity of our customs union, our common commercial policy, our regulatory policy and our fiscal revenue" (Strupczewski and Macdonald 2018). On 20th September 2018, Donald Tusk rejected the Chequers agreement (Herszenhorn and Gray 2018).

On 21st August 2018, it was announced that it would be unlikely that a trade agreement would be established before the quarterly European Council summit on 18th and 19th October 2018, mostly due to disagreements about the border between Northern Ireland and the Republic of Ireland, and an emergency summit in November or December was suggested (Baczynska 2018). Dominic Raab gave a speech on no-deal planning on 23rd August 2018; advice which he said was "the first batch in a series" of technical notes that "explain how the UK would mitigate the consequences of a no-deal [sic] scenario in a range of ways" (GOV.UK 2018b). Britain's Secretary of State for International Trade, Liam Fox, said a no-deal Brexit would be "hugely suboptimal [sic], compared to getting a deal" (Www.parliament.uk 2019h).

On 29th August 2018, Michel Barnier proposed a trade agreement “such as has never been with any other third country” (Martin 2018). This would be “an unprecedentedly close relationship” between Britain and the EU after Brexit (Ecritt and MacLellan 2018) “as long as the future relationship did not undermine the EU’s Single Market” (Hall 2018). On 4th October 2018, Theresa May’s proposal for the whole of Britain to be in a post-Brexit EUCU received Irish support, but was rejected by Michel Barnier due to concerns of Britain accessing the EU’s trade and regulatory regime without membership obligations. However, one senior Irish official said “if effectively they accept the customs union, they’re not leaving anything really” (Beesley and Parker 2018)

Jean-Claude Juncker said on 5th October 2018 that “you can’t absolutely keep separate the withdrawal treaty and the declaration of the future relationship between the United Kingdom and Europe” and “we have to get away from this no-deal scenario. It wouldn’t be good for Britain or for the rest of the Union” (Knolle 2018). On 9th October 2018, Arlene Foster met Michel Barnier and “warned she will not support any Brexit deal that could lead to new economic barriers between Northern Ireland and the rest of the UK” (BBC News 2018e). Nevertheless, Michelle O’Neill claimed that “the DUP does not speak for the majority of the people of the North [sic] on Brexit” and that Sinn Féin supported Britain remaining in the EUCU and ESM in order to maintain Northern Ireland’s access to the EU market and the British market (Sabbagh and Boffey 2018).

On 11th October 2018, it was reported that Britain and the EU conceded to all of Britain being in “an indefinite customs backstop to ensure an open border in Ireland” (Sabbagh and Boffey 2018). However, Theresa May later said that negotiations would be continue until November due to the DUP’s concerns (Ferguson, Humphries and Stamp 2018). Alternatively, Michel Barnier proposed that Britain could stay “in the customs union temporarily and would continue to apply the EU’s external tariffs” (Gavin 2018b). On 22nd October 2018, Theresa May announced four steps to overcome the deadlock over the border between Northern Ireland and the Republic of Ireland, which are “a temporary UK-EU joint customs territory, the option to extend the implementation period, but not be kept in either of these arrangements indefinitely, and a guarantee for Northern Ireland businesses of full access to rest of the UK market” (BBC News 2018d).

Despite Jean-Claude Juncker’s rejection of the concept of a separate withdrawal agreement and a future relationship declaration on 5th October 2018, on 23rd October 2018 it was announced that the EU would offer Britain a UK-wide membership of the EUCU as a non-binding separate treaty to the

legally-binding withdrawal agreement (Connelly 2018). These were still to include a backstop solution specific to Northern Ireland to address the border between Northern Ireland and the Republic of Ireland. This was contrary to Theresa May's previous calls for a legally-binding and temporary UK-wide customs backstop solution, and her refusal of a backstop solution specific to Northern Ireland (Connelly 2018; MacLellan and Addison 2018). However, this offer was progress towards the first of her four steps to overcome the deadlock over the border between Northern Ireland and the Republic of Ireland. In Dominic Raab's letter to Hilary Benn, Labour Party MP and Chair of the Exiting the European Union Select Committee, dated 24th October 2018, the only issues that still needed resolving were Theresa May's four steps to overcome the deadlock over the border between Northern Ireland and the Republic of Ireland (Www.parliament.uk 2018d).

5.3 The final draft of the withdrawal agreement

On 13th November 2018, the European Commission (2018b) published a document preparing for the withdrawal of Britain from the EU and its contingency action plan. It acknowledged that "the withdrawal of the United Kingdom from the EU will impact all Member States to varying degrees, but none more so than Ireland" (European Commission 2018b, p.4). It stated the EU's readiness to find solutions "with the Member States that will be most affected by a disorderly withdrawal" (European Commission 2018b, p.4), particularly Ireland, according to EU state aid law. It also expressed its commitment to the continuation of the current PEACE and INTERREG programmes between the border counties of Northern Ireland and the Republic of Ireland, as well its consideration of strengthening this support in the event of Britain's disorderly withdrawal from the EU. The House of Commons voted without a division, namely "by physically going into one of two rooms on either side of the Commons Chamber" rather than calling out (Www.parliament.uk 2011, p.1), in favour of a motion that the government should publish legal advice concerning the withdrawal agreement that the Attorney General for England and Wales, Geoffrey Cox, provided to the British cabinet (Www.parliament.uk 2018c; Www.parliament.uk 2018a).

The final draft of the withdrawal agreement was published on 14th November 2018 (European Commission 2018a) along with the non-binding political declaration setting out the framework for the future relationship between Britain and the EU (European Council 2018b; RTÉ 2019b). The November draft withdrawal agreement established a transition period that was originally proposed by Theresa May in September 2017 (BBC News 2017b). Under Article 126 of the withdrawal agreement, the transition period was to end on 31st December 2020, and start on the intended date of

entry into force of the withdrawal agreement, which is 30th March 2019 according to Article 185. On 18th November 2018, Michel Barnier suggested extending the transition period until 2022, which could cost billions and disappoint those who voted to leave the EU (Rankin 2018).

Under Article 127 of the withdrawal agreement, EU law was to be applicable to and in Britain during the transition period (European Commission 2018a). Under Article 86 of the withdrawal agreement, the ECJ would continue have jurisdiction in any proceedings involving Britain before the end of the transition period (European Commission 2018a). Under Article 87 of the withdrawal agreement, if the European Commission considers that Britain has failed to fulfil an obligation before the end of the transition period, it may bring the matter to the ECJ within 4 years after the end of the transition period (European Commission 2018a). This appeared to be contrary to Theresa May's (2018) claim that the November draft withdrawal agreement brings "the jurisdiction of the European Court of Justice in the UK to an end".

The Protocol on Ireland/Northern Ireland included within the draft withdrawal agreement was to "apply as from the end of the transition period" (European Commission 2018a, p.299). Under Article 184 of the withdrawal agreement, Britain and the EU were to negotiate agreements regarding their future relationship. Under Article 2(1) of the Protocol, they were also to negotiate an agreement that supersedes the Protocol by the end of the transition period. Under Article 3 of the Protocol, after considering the progress made towards the conclusion of an agreement that supersedes the Protocol, the transition period could be extended before 1st July 2020 in accordance with Article 132(1) and notwithstanding Article 126. This extension would be adopted by the Joint Committee comprising representatives of Britain and the EU that was established under Article 164 (European Commission 2018a; European Commission Press Release Database 2018b; The Belfast Telegraph 2018a).

The withdrawal agreement also refers to a financial settlement of an unspecified amount "covering the EU budget, the termination of the United Kingdom's membership of all bodies or institutions established under the Treaties and the participation of the UK in specific funds and facilities related to the Union policies" (European Commission Press Release Database 2018b). The principles of the agreed methodology "to calculate the UK's obligations in the context of its withdrawal" are "no Member State should pay more or receive less because of the United Kingdom's withdrawal from

the Union” and “the United Kingdom should neither pay more nor earlier than if it had remained a Member State” (European Commission Press Release Database 2018b).

The British government later estimated that the financial settlement will cost around £35 billion pounds to £39 billion pounds, or around €40 billion euros to €45 billion euros (Www.parliament.uk 2018b). The Protocol on Ireland/Northern Ireland states that Britain and the EU are committed “to the maintaining of the current funding proportions” (European Commission 2018a, p.305) for the future PEACE and INTERREG programmes. According to the European Commission Press Release Database (2018a), “the Commission has already proposed the continuation of PEACE and INTERREG for Northern Ireland and the border regions of Ireland beyond 2020 under a single programme PEACE PLUS. It will now be for the EU Member States, with the consent of the EP, to decide on this”.

Under Article 1(3) of the Protocol, “this Protocol sets out arrangements necessary to address the unique circumstances on the island of Ireland, maintain the necessary conditions for continued North-South cooperation, avoid a hard border and protect the 1998 Agreement in all its dimensions” (European Commission 2018a, p.307). Britain and Ireland “may continue to make arrangements between themselves relating to the movement of persons between their territories” (European Commission 2018a, p.309) through the CTA under Article 5(1) of the Protocol. Under Article 6 of the Protocol, “until the future relationship becomes applicable, a single customs territory between the Union and the United Kingdom shall be established” (European Commission 2018a, p.310), namely a single customs territory. Northern Ireland would “therefore remain part of the same customs territory as the rest of the UK with no tariffs, quotas, or checks on rules of origin between Northern Ireland and the rest of the UK” (European Commission Press Release Database 2018a).

5.3.1 Controversy

On 15th November 2018, the second Secretary of State for Exiting the European Union holding office since 9th July 2018, Dominic Raab; Conservative Party MP and Northern Ireland Minister, Shailesh Vara; and several other ministers resigned after the announcement of the November withdrawal agreement, some in protest of the backstop solution (Campbell 2018; Crerar and Weaver 2018). Conservative Party MP, Stephen Barclay, was appointed the third Secretary of State for Exiting the European Union on 16th November 2018. Arlene Foster said that the DUP would not vote in favour of the withdrawal agreement because it incorporates the backstop solution, which could lead to a border in the Irish Sea, as well as differential treatment for Northern Ireland

compared to the rest of Britain (McMahon 2018). Some claimed that this had the potential to collapse Theresa May's government and trigger an election amidst the Brexit negotiations (TheJournal.ie 2018). Theresa May relied on the support of the DUP's 10 MPs that provided her with her working majority in parliament (Faulconbridge 2017; Blitz, Mance and Barker 2019) because it would have been highly unlikely that the parliament would approve the withdrawal agreement if the DUP voted against it (McCormack 2019).

On 4th December 2018, the House of Commons voted 311 to 293 in favour of a motion finding ministers in contempt for their failure to publish full legal advice regarding the withdrawal agreement from 13th November 2018 (Www.parliament.uk 2018a; Www.parliament.uk 2018c). According to Casalicchio (2018), "a member of the Government has never been found in contempt of parliament, [sic] so the situation is completely unprecedented". The legal advice was published on 5th December 2018, and addressed the legal effects of the Protocol on Ireland/Northern Ireland regarding the customs border and its implications for the GFA (GOV.UK 2018a; BBC News 2018b).

The legal advice concludes that the Protocol "does not provide for a mechanism that is likely to enable the UK lawfully to exit the UK wide customs union without a subsequent agreement. This remains the case even if parties are still negotiating many years later, even if the parties believe that talks have clearly broken down and there is no prospect of a future relationship agreement" (GOV.UK 2018a, p.5, paragraph 30). This is because the Protocol could continue indefinitely in the absence of an agreement superseding it, and the EU would not be legally obliged to bring it to an end (BBC News 2018b).

5.3.2 The first meaningful vote

On 10th December 2018, Theresa May postponed the British parliament's vote on the withdrawal agreement, also known as the meaningful vote, that was scheduled to be held on the following day on 11th December 2018. This was due to opposition to the withdrawal agreement; and Theresa May's hope to renegotiate the withdrawal agreement with the EU, which the EU27 appeared unwilling to do (ITV News 2018a). Theresa May said that "it is clear that while there is broad support for many of the key aspects of the deal, on one issue, the Northern Ireland backstop, there remains widespread and deep concern" (Bruce, MacLellan and Holton 2018).

Professor at Birmingham City University and Director of its Centre for Brexit Studies, Alex de Ruyter, said that “it all comes down to the backstop. We need to think about the perspective of the other side, the other 27 EU member states, who think too much has already been conceded” (Whitfield 2018a). The postponement of the meaningful vote led to calls for a motion of no confidence in Theresa May (BBC News 2018a; Whitfield 2018a). On 12th December 2018, Conservative Party MPs defeated a motion of no confidence in Theresa May by 200 to 117 votes and Theresa May pledged to resign before Britain’s 2022 general election (Whitfield 2018a).

Another motion of no confidence in Theresa May through the Conservative Party couldn’t be held until December 2019 (Allegretti 2019; McTague and Cooper 2019) because “if more than 50% of all Conservative MPs vote in support (158 MPs) of the Prime Minister, they can stay as party leader and no new vote can be triggered for 12 months” (The Institute for Government 2019b; Whitfield 2018a). However, the Leader of the Labour Party Jeremy Corbyn, was urged to put forward a motion of no confidence in the government of Theresa May, in which every MP would be eligible to vote (Whitfield 2018b; Whitfield 2018a; Allegretti 2019). Founder of Labour Leave, John Mills, said that “I think although the DUP has been muddling about supporting the government, if it came to a vote of confidence, they would be willing to vote with the government, in which case there wouldn’t be a vote in favour of a no-confidence motion” (Whitfield 2018b).

According to Whitfield (2018a), if the EU27 were still unwilling to renegotiate the withdrawal agreement, Theresa May wouldn’t have many feasible alternative options to offer, which Alex de Ruyter said could be one of the reasons for the motion of no confidence in Theresa May. Theresa May said that no other options would “miraculously appear” in the event of the defeat of the withdrawal agreement and that “I know this is not everyone’s perfect deal. It is a compromise. But if we let the perfect be the enemy of the good, we risk leaving the EU with no deal” (Gavin 2018a). Whitfield (2018a) also claimed that the motion of no confidence in Theresa May could be perceived as an attempt to achieve a harder Brexit, particularly by members of the European Research Group (ERG), which focuses on Brexit and consists of Conservative Party MPs, some of whom submitted letters of no confidence in Theresa May. Alex de Ruyter said that “I don’t think they did it because they thought they could bring her down. They knew full well they don’t have numbers. But it adds to uncertainty and makes no-deal more likely” (Whitfield 2018a).

On 13th December 2018, the European Council published its conclusions on Brexit (European Council 2018a) after its summit on 13th and 14th December 2018. A suggestion was removed “that the backstop would be in place for a “short” period, for fear that this could not be guaranteed due to the vagaries of the negotiations” (Boffey 2019d). On 17th December 2018, Jeremy Corbyn said that he would put forward a motion of no confidence in Theresa May (Gavin 2018a; Russell 2018), claiming that it was “the only way I can think of ensuring a vote takes place this week” (Russell 2018). Theresa May then announced that the meaningful vote would be postponed until January 2019 (Gavin 2018a; Russell 2018), and Downing Street t, a street in London on which the official residences and offices of the British Prime Minister and the Chancellor of the Exchequer are located, said that claims that Jeremy Corbyn had forced Theresa May to bring the withdrawal agreement back to the House of Commons was “incorrect” (Gavin 2018a).

However, according to Gavin (2018a):

But because Mr Corbyn’s motion is directed at Mrs May and not the Government, it will have far less impact as the result of a confidence vote against the PM non-binding and is therefore largely symbolic. The Government will also have the final say over when and if Mr Corbyn’s vote takes place. However, [sic] it is understood that if Downing Street refuses to allow it to go ahead before Christmas, Labour will escalate its motion from a no confidence vote in Mrs May to a binding vote on the Government.

On 18th December 2018, Schofield (2018) reported that the British government refused to make parliamentary time available for the motion of no confidence in Theresa May that was put forward by Jeremy Corbyn to be debated. This led to calls for a motion of no confidence in the government of Theresa May instead, which could potentially trigger a general election, although the Labour Party refused because, according to Schofield (2018), the Labour Party “will only put down a no confidence motion when it is confident of victory”. Schofield (2018) claimed that the Speaker of the House of Commons, John Bercow, would be unlikely to accept a motion of no confidence in the government of Theresa May proposed by other political parties that isn’t supported by the Labour Party. Leader of the SNP in the House of Commons, Ian Blackford, claimed that Jeremy Corbyn wouldn’t support a motion of no confidence in the government of Theresa May “to avoid having to make a decision on a second EU referendum”, and the Leader of the Liberal Democrats, Vince Cable, said that it was “more evidence that his recalcitrance is really a rouse to avoid supporting a people’s vote” (Schofield 2018).

On 9th January 2019, the British government published a paper in which it outlined its commitments to Northern Ireland and the role of Northern Ireland in the backstop solution process (GOV.UK 2019g). The paper claimed that “where appropriate we will legislate to ensure that these commitments have legal force” (GOV.UK 2019g, p.4, paragraph 9). If no trade agreement were to be established between Britain and the EU before the end of the transition period, the British government would “consult” (GOV.UK 2019g p.7, paragraph 20; ITV News 2019c) the NIA and guarantee it a “strong role” (GOV.UK 2019g p.6, paragraph 16; ITV News 2019c) before Britain deciding to trigger the backstop solution or request an extension of Article 50 of the TEU.

However, DUP MP and the DUP’s Brexit spokesman, Sammy Wilson said that “the only deal which could swing the DUP round is if the backstop as it applies to the United Kingdom as a whole, or to Northern Ireland specifically, were removed from this agreement” (ITV News 2019c). He referred to paragraph 50 of the joint report from the negotiators of the EU and the British government published on 8th December 2017 (Taskforce on Article 50 2017, p.8; Wilson 2019b, as cited in ITV News 2019c):

In the absence of agreed solutions, as set out in the previous paragraph, the United Kingdom will ensure that no new regulatory barriers develop between Northern Ireland and the rest of the United Kingdom, unless, consistent with the 1998 Agreement, the Northern Ireland Executive and Assembly agree that distinct arrangements are appropriate for Northern Ireland. In all circumstances, the United Kingdom will continue to ensure the same unfettered access for Northern Ireland’s businesses to the whole of the United Kingdom internal market.

A controversial amendment to a government business motion was put forward by Conservative Party MP and former Attorney General for England and Wales, Dominic Grieve, that required the government to present a new Brexit proposal within three sitting days if the withdrawal agreement were to be defeated in the meaningful vote on 15th January 2019 (ITV News 2019c; Buchan 2019). In the event of the defeat of the withdrawal agreement, the government would have previously had three weeks to present a new Brexit proposal, which the House of Commons would have voted on after one week (ITV News 2019c; Buchan 2019). Additionally, Buchan (2019) stated that as a result of the Grieve amendment, “MPs will be allowed to put forward their own ideas, such as a Norway-style deal or even a second referendum”.

Some questioned the impartiality of John Bercow for accepting the amendment (Buchan 2019) because they claimed that the motion shouldn’t have been amendable (ITV News 2019c) “as parliamentary rules usually only allow a government minister to amend motions of this kind”

(Buchan 2019). Nevertheless, the House of Commons approved the amendment by 308 to 297 votes (ITV News 2019c; Buchan 2019). Labour Party MP and Shadow Secretary of State for International Trade, Barry Gardiner, suggested that the Labour Party should put forward a motion of no confidence in the government of Theresa May in order to hold an early general election if the withdrawal agreement were to be defeated; and Jeremy Corbyn suggested that Theresa May should resign and call a general election if the withdrawal agreement were to be defeated (ITV News 2019c).

On 15th January 2019, the House of Commons rejected the withdrawal agreement by 432 to 202 votes by a majority of 230 votes, which was the largest defeat for a British government in more than a century (Cooper 2019b; ITV News 2019b). All DUP MPS voted against the withdrawal agreement (Voce and Clarke 2019). Stevens (2018) reported that the ‘Best for Britain’ pro-EU campaign organisation supported by a Hungarian-American investor and philanthropist, George Soros, intended to spend £5.6 million pounds on a campaign in order to encourage MPs to vote against the withdrawal agreement and “stop Brexit democratically”. On 16th January 2019, the House of Commons defeated a motion of no confidence in the government of Theresa May by 325 to 306 votes, in which the DUP supported the government (Chaplain 2019).

5.3.3 Amendments to the withdrawal agreement

On 14th January 2019, Theresa May wrote a letter to Jean-Claude Juncker and Donald Tusk about legal and political assurances on the backstop solution (GOV.UK 2019f; Boffey 2019d). In their response, they offered assurances on the temporary nature of the backstop solution because an indefinite backstop solution would not be in the EU’s interest as it could provide Britain with an economic advantage as well as well as cause complications for the EU when establishing trade agreements with non-EU member states (European Council 2019; Boffey 2019d). They also emphasised that a superseding agreement need not build on the EUCU in the backstop solution (European Council 2019; Boffey 2019d). According to Lamont (2019), “it is not at all clear why the EU would want Britain permanently in the backstop since it gives Britain full access to goods in the single market without having to accept either freedom of movement or make payments to the EU Budget” and “the EU would surely look pretty disreputable if it ever tried to keep Britain in the backstop against its wish”.

On 21st January 2019, the Irish government “rejected British proposals for a bilateral treaty in order to avoid a border backstop” due to its necessity to “avoid a hard border, protect the peace process,

and guarantee human rights” (McConnell 2019). This was in accordance with the advice presented in the European Commission’s contingency action plan that member states “should refrain from bilateral discussions and agreements with the United Kingdom, which would undermine EU unity” (European Commission 2018b, p.4). Poland’s Minister of Foreign Affairs, Jacek Czaputowicz, suggested putting a time limit on the backstop solution in order to overcome the deadlock over the Brexit negotiations. Ireland’s Tánaiste, the Deputy Prime Minister, Simon Coveney, responded by saying “I made it very clear that putting a time limit on an insurance mechanism, which is what the backstop is, effectively means that it’s not a backstop at all. I don’t think that reflects EU thinking in relation to the withdrawal agreement” (Strupczewski 2019b).

On 23rd January 2019, Michel Barnier said that “the question of limiting the backstop in time has already been discussed twice by European leaders. This is the only possible option because an insurance is of no use if it is time limited” (Blamont and Kar-Gupta 2019). Nevertheless, the EU’s rejection of a time limit on the backstop solution in defence of the economic interests of the entire bloc and the political interests of the Republic of Ireland appeared to be exploited by many pro-Brexit media outlets. Many pro-Brexit media outlets seemed to denigrate the EU to a greater extent than they criticised Britain’s unstable political landscape and subsequent failure to bring clear, consistent, and feasible requests to the Brexit negotiations.

The British parliament’s 2018 European Union (Withdrawal) Act provided for the parliamentary approval of the withdrawal agreement as well as the repeal of the British parliament’s 1972 European Communities Act that legally provided for the accession of Britain to the European Union, then known as the European Communities. Under paragraph 14 of Schedule 7 of the European Union (Withdrawal) Act, the date when Britain was expected to formally withdraw from the EU according to section 20(1) of the European Union (Withdrawal) Act could be altered through a statutory instrument (SI) (Legislation.gov.uk 2018; Howe 2019; Miller 2019), a form of legislation which enable Acts of Parliament to be altered or implemented without the necessity of passing a new Act (House of Commons Information Office 2008), provided that a draft SI is passed by both the House of Commons and the House of Lords (Legislation.gov.uk 2018; Howe 2019).

Section 13(4) of the 2018 European Union (Withdrawal) Act stated that if the House of Commons doesn’t pass the resolution regarding the parliamentary approval of the withdrawal agreement, a minister must make a statement explaining how the government will proceed with EU withdrawal

negotiations within 21 days (Legislation.gov.uk 2018). Under section 13(6)(a) of the European Union (Withdrawal) Act 2018, an amendable motion concerning the statement made under section 13(4) was to be put forward within 7 House of Commons sitting days beginning on the day on which the statement is made (Legislation.gov.uk 2018).

On 29th January 2019, the House of Commons voted on a range of amendments to Theresa May's statements on the defeat of her withdrawal agreement made on 21st January 2019 (Www.parliament.uk 2019j) and 24th January 2019 (Www.parliament.uk 2019i) "in accordance with the provisions of section 13(6)(a) and 13(11)(b)(i) and 13(13)(b) of the European Union (Withdrawal) Act 2018" (House of Commons 2019c, p.6; Legislation.gov.uk 2018). In these statements, she vaguely presented what many other media dubbed her "plan B" (Kirby 2019). The range of amendments called to rule out a no-deal Brexit; adjust the backstop solution to unspecified "alternative arrangements" (House of Commons 2019c, p.21), in which Northern Ireland could remain in the EUCU; delay Brexit by extending Article 50; give parliament control over the Brexit process; give the public a vote on the final withdrawal agreement; enable the House of Commons to have indicative votes, "a means of testing the will of the House of Commons on different options relating to one issue" (The Institute for Government 2019a) on alternatives to the withdrawal agreement; hold a second referendum; enable the House of Commons to vote to remain in the ESM and EUCU according to the Labour Party's Brexit plan; enable Scotland to remain in the EU; and cancel Brexit altogether (Government Europa 2019).

The amendment calling to adjust the Irish backstop solution; also known as the Brady amendment because it was in the name of Conservative Party MP, Graham Brady; was passed and by 317 to 301 votes; the non-binding amendment calling to rule out a no-deal Brexit; also known as the Spelman amendment because it was in the name of Conservative Party MP, Caroline Spelman; was passed by 318 to 310 votes; and all other amendments were defeated (Government Europa 2019). The Conservative Party and the Labour Party developed "a compromise plan that would include redrafting the controversial Irish backstop and a longer transition period" (Geoghegan 2019) through the use of technology.

The compromise plan was dubbed the Malthouse compromise, which could be used to enable a "managed no-deal" (Elgot 2019b) Brexit according to Plan B if the negotiations to adjust the Irish backstop solution were to fail according to Plan A (Hill 2019b). Michel Barnier said that a managed

no-deal wasn't possible because "without an operational backstop, there will not be an accord and there will not be a transition period" (Elgot 2019b). The Deputy European Chief Negotiator for the United Kingdom Exiting the European Union, Sabine Weyand, said that the technology to avoid a hard border that the Malthouse compromise proposes doesn't exist (Elgot 2019b). However, the EU condemned Britain's insistence on technical solutions to avoid a hard border as "magical thinking" (Murray 2018b).

Theresa May intended to restart negotiations about the backstop solution according to these amendments, despite the House of Commons' rejection of the withdrawal agreement and the other 27 EU member states appearing unwilling to renegotiate the withdrawal agreement (Rayner, Swinford, Maidment and Mikhailova 2019; Blitz, Mance and Barker 2019; Crisp, Mikhailova and Maidment 2019). On 7th February 2019, Theresa May met the President of the European Commission, Jean-Claude Juncker, "to review the next steps in the UK's withdrawal from the EU", during which Jean-Claude Juncker said that "the EU27 will not reopen the withdrawal agreement", but "expressed his openness to add wording to the Political Declaration agreed by the EU27 and the UK in order to be more ambitious in terms of content and speed when it comes to the future relationship between the European Union and the UK" (European Commission Press Release Database 2019; European Council 2018b).

On 12th February 2019, David Trimble, winner of the 1998 Nobel Peace Prize for his role in the GFA negotiations, formally began an action challenging the backstop solution's legality under the GFA (Moriarty 2019). On 13th February 2019, it was reported that former Taoiseach, Bertie Ahern, was questioned by the Exiting the European Union Select Committee of the House of Commons about how suggestions of the Republic of Ireland re-joining Britain, leaving the EU, or disregarding its responsibility to protect its border with Northern Ireland would be received by citizens of the Republic of Ireland, to which he responded "not very well. Unfortunately, [sic] we have an 800-year past of difficulties and that's just a reality of our history" (Logue 2019).

On 12th February 2019, Theresa May gave a statement to the House of Commons, in which she announced that she would put forward an amendable motion on 14th February 2019 to reaffirm the House of Commons' support for the British government in "seeking changes to the backstop" and "to recognise that negotiations are ongoing" according to the amended motion from 29th January 2019 (GOV.UK 2019e; House of Commons 2019b). On 14th February 2019, the motion was

defeated by 303 to 258 votes (BBC News 2019d). She also announced that she will “bring forward another meaningful vote” on the modified withdrawal agreement, although “if the Government has not secured a majority in this House in favour of a Withdrawal Agreement and a Political Declaration, then the Government will on Tuesday 26 February make a statement and table an amendable motion relating to the statement; and a Minister will move that motion on Wednesday 27 February, thereby enabling the House to vote on it, and on any amendments to it, on that day” (GOV.UK 2019e). On 15th February 2019, it was reported that legally-binding assurances on the backstop solution could be provided without reopening the withdrawal agreement by including them within the political declaration (Baczynska 2019c).

On 19th February 2019, Chief Spokesperson of the European Commission, Margaritis Schinas, reiterated that “the EU will not reopen the Withdrawal Agreement. We cannot accept a time limit to the backstop or a unilateral exit clause” (RTÉ 2019c). On 21st February 2019, Jean-Claude Juncker said that he had “Brexit fatigue” and was “not very optimistic” about avoiding Britain’s no-deal withdrawal from the EU (Rothwell and Taylor 2019). This was after the EU rejected Geoffrey Cox’s proposal that the withdrawal agreement should state that Britain could leave the backstop solution without the EU’s consent, as opposed to it originally stating that the EU would not be legally obliged to bring it to an end (BBC News 2018b).

On 23rd February 2019, three MPs warned that they will delay Brexit in order to prevent Britain’s no-deal withdrawal from the EU (The Irish Times 2019b). On 22nd February 2019, the Irish government published the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill, which makes provision “or certain matters consequent on the withdrawal of the United Kingdom from membership of the European Union”, namely the maintenance of the CTA and the reduction of potential “serious disturbance in the economy of the State” (Houses of the Oireachtas 2019).

On 24th February 2019, Simon Coveney said that “you can’t ask Ireland to compromise on something as fundamental as a peace process and relationships linked to the Good Friday Agreement” (McGee 2019). Theresa May announced that the meaningful vote would not take place on 27th February as expected (Piper 2019b) due to continuing negotiations between Britain and the EU over the backstop solution, but she would ensure that another meaningful vote would happen by 12th March 2019 (BBC News 2019c). This was contrary to her commitment in her aforementioned

statement on 12th February 2019 (GOV.UK 2019e), which was to enable the House of Commons to vote on an amendable motion on 27th February 2019 relating to a statement to be made by the government on 26th February 2019 (GOV.UK 2019d).

On 27th February 2019, the House of Commons (2019a) passed an amendment by 502 to 20 votes to confirm Theresa May's commitment to another meaningful vote by 12th March 2019. If the meaningful vote was defeated, then on 13th March 2019, MPs would vote on a no-deal Brexit. If this was defeated, then on 14th March 2019, MPs would vote on extending Article 50 of the TEU, thereby delaying Brexit (Walker and Stewart 2019b; Boffey, O'Carroll and Walker 2019). If this was defeated, it could lead to revoking Article 50 of the TEU or a second referendum (ITV News 2019b). On 28th February 2019, Sammy Wilson suggested that the DUP could support the withdrawal agreement if it incorporated a backstop solution with a time limit (K. Harris 2019), which was rejected by Michel Barnier (The Irish Times 2019a).

On 2nd March 2019, it was reported that despite Theresa May's insistence that Britain would be able to formally withdraw from the EU on 29th March 2019 as expected if the withdrawal agreement were to be passed by the House of Commons on 12th March 2019, Michel Barnier claimed that an extension would be needed because there wouldn't be enough time for the EU to ratify the withdrawal agreement (Kentish 2019). He said that "you have to know that an extension would serve to fix a problem, not to delay the solution" and expressed his opinion that Britain shouldn't "risk prolonging the general uncertainty of Europe beyond the elections" (Kentish 2019).

Michel Barnier also reassured Britain that "we know that there are misgivings in Britain that the backstop could keep Britain forever connected to the EU. This is not the case. And we are ready to give further guarantees, assurances and clarifications that the backstop should only be temporary. Guarantees, assurances, can be given in a document, perhaps next to the treaty, not in the political declaration", such as in a joint interpretative document appended to the withdrawal agreement that could include assurances made in the letter from Donald Tusk and Jean-Claude Juncker to Theresa May (Kentish 2019) on 14th January 2019 (European Council 2019). He added that "there cannot be a temporality clause, as it is impossible for there to be a unilateral withdrawal from it. The backstop must be and remain credible" (Kentish 2019). On 3rd March 2019, Michel Barnier again suggested that a Brexit delay was inevitable (Nellist 2019). Geoffrey Cox "abandoned attempts to secure a hard time-limit or unilateral exit mechanism for the Irish backstop" (Swinford and Foster 2019).

On 5th March 2019, Geoffrey Cox and Stephen Barclay resumed negotiations with the EU to make some legally-binding changes to the backstop solution (Lyons 2019; Smyth 2019). Leo Varadkar said that the negotiations are in a “sensitive phase” and that “Ireland has been “very flexible and very reasonable” in helping the UK government to resolve its problems which, he said, were of Britain’s own making” (Lyons 2019). A senior DUP MP reiterated that they could support the “revised Brexit deal if the withdrawal agreement itself is amended to make the Northern Ireland backstop time-limited, or allow the UK to withdraw unilaterally” (Walker 2019c).

According to Simon Coveney, the EU and the Republic of Ireland were “trying to provide clarification that temporary means temporary and that Geoffrey Cox and others can recommend to their parliament that they won’t be trapped against their will indefinitely” (Leahy and Carswell 2019). According to the European Commission, “the latest talks aimed at breaking the Brexit deadlock over the Northern Ireland backstop have failed to achieve a breakthrough” (The Belfast Telegraph 2019g), notwithstanding that 10th March was the final deadline for any changes (Boffey and Stewart 2019). According to Sabine Weyand, the “UK is seeking substantial assurances without any assurance these will in any way actually work” (Boffey and Stewart 2019).

On 7th March 2019, Geoffrey Cox claimed that the backstop solution could breach Article 3 of Protocol 1 of the ECHR (Boffey, O’Carroll and Walker 2019), which is the right to free elections (European Council 2013), due to Northern Irish citizens being unrepresented in EU institutions. Some perceived this as an attempt to encourage the EU to put a time limit on the backstop solution and reduce its scope (Boffey, O’Carroll and Walker 2019), and gain the support of the DUP (Connelly 2019). Some also responded with surprise because Britain had already negotiated on and agreed to the backstop solution (Boffey, O’Carroll and Walker 2019) and Geoffrey Cox’s previous legal advice from 13th November 2018 (Www.parliament.uk 2018c) that was published on 5th December 2018 (GOV.UK 2018a) hadn’t raised concerns of Northern Ireland’s representation (Connelly 2019).

According to an official report of a parliamentary debate about the withdrawal agreement and Northern Ireland on 7th March 2019 (House of Commons Hansard 2019b; Hill 2019a), DUP MP, Gavin Robinson, stated that “should the backstop be indefinite, it is likely to breach the commitments under the Belfast agreement, and indeed the commitments that are given to me as a

Northern Ireland citizen under article 3”, presumably in reference to Article 3’s emphasis of respect for “all the diversity of their identities and traditions”, including unionists (Department of Foreign Affairs and Trade 1998). Geoffrey Cox responded that “if I were to answer that question, I would be breaching the Law Officers’ convention. All I can say is that I turn my mind to a great many of the legal implications of the treaty, and those that he has mentioned have not escaped me” (House of Commons Hansard 2019b; Hill 2019a). According to Hill (2019a), Geoffrey Cox’s view on the backstop solution’s compatibility with the GFA was very different “to the official line laid down by Downing Street”, and he was “finally offering the sort of sceptical, expert scrutiny of the backstop” that could lead to changes to the withdrawal agreement in order to gain Eurosceptic MPs’ support for it.

The Spokesperson on Brexit for Fianna Fáil, an Irish republican party, Lisa Chambers, said that ““if you are resorting to using European human rights law, that means negotiations are not going well” and that “the problem is Geoffrey Cox is trying to solve a political problem with a legal solution. It makes you question the strategy of the government sending in a lawyer to negotiate when it is a political, not a legal, problem” (Boffey, O’Carroll and Walker 2019; Hill 2019a). Moreover, Boffey, O’Carroll and Walker (2019) asserted that Geoffrey Cox’s claim was flawed because it is Britain that was the partner in the withdrawal agreement negotiations that is responsible for the GFA.

An interview was published with a number of EU diplomats on Geoffrey Cox’s proposal for “a disputes arbitration panel that would not be obliged to refer cases to the EU’s top court, the ECJ” (Baczynska 2019b). The arbitration panel “would decide if enough “good faith” and “best endeavours” were being shown negotiating a post-Brexit trade deal” by both Britain and the EU (Baczynska 2019b) and “suspend the backstop if one side is action in bad faith” (Herszenhorn, Barigazzi and Taylor 2019), which some diplomats said would “go well beyond what is in the withdrawal agreement and would undermine the EU’s legal order” (Boffey, O’Carroll and Walker 2019). The arbitration panel could lead to “a “mini-backstop” which would include fewer checks than envisaged in the Withdrawal Agreement” (Baczynska 2019b). In response, an EU diplomat said that “that would only cover checks for animal health, food safety and prohibited items. It would not cover production standards or where the goods originate which are essential to protecting the EU single market” (Baczynska 2019b).

Moreover, some EU diplomats considered Geoffrey Cox's proposal to lack detail and claimed that it failed to specify how the border between Northern Ireland and the Republic of Ireland would be kept open (Baczynska 2019b). A second EU diplomat also believed that negotiations would continue until the European Council summit on 21st and 22nd March 2019 (Baczynska 2019b), one week before Britain was expected to formally withdraw from the EU on 29th March 2019, when "the 27 remaining EU states will be asked to endorse the new documents" (The Belfast Telegraph 2019e). Some EU diplomats anticipated a short extension to the expected withdrawal date until mid-May or the end of June to "prevent a no-deal Brexit that many say could cause economic turmoil", even though a third EU diplomat considered this to be "just postponing the cliff-edge" (Baczynska 2019b). A fourth EU diplomat responded that "we are now in a state when we are discussing proposals we have rejected months ago" and "they've sent in a criminal lawyer who doesn't know EU law or customs rules" so "we are explaining from scratch why his ideas won't fly" (Baczynska 2019b).

Leo Varadkar said that "I often wonder why people are asking us to make further concessions, we've made a lot of concessions already - accepting a UK-wide element to the backstop when we only ever wanted it to be Northern Ireland specific" (Gavin 2019). He also claimed that "this problem of Brexit, a hard border on our island with disruption to trade and our economy, these are problems created in Britain. Surely they are the ones who should be coming forward with further concessions and further offers to us in terms of what more they can do to mitigate the damage they are creating" (Gavin 2019). The EU gave Britain 48 hours to provide a new plan for the backstop solution (Maidment 2019). It was reported that "99 percent" of the negotiations since early February have been dealing with trying to secure legally binding assurances that the backstop solution will not become permanent if triggered and that "Brexit negotiators have spent less than 1 percent of their time discussing technological alternatives to the Irish border backstop" (Crisp 2019c).

On 8th March 2019, the EU made "meaningful" concessions on the backstop solution by agreeing to provide legal guarantees on the temporary nature of the backstop solution within the withdrawal agreement, as well as a more prominent role for the arbitration panel (Wright, Jones and Waterfield 2019). Michel Barnier announced that he was "ready to give Britain the unilateral right to leave the EU customs union" and that Britain "would need to honour its commitment to keep the Irish border free of controls, potentially leaving Northern Ireland subject to EU rules, with a "border" in the

Irish Sea between Northern Ireland and the island of Britain”, which Nigel Dodds considered “neither realistic nor sensible” (Piper 2019a).

According to Parker and Giles (2019), “Theresa May repeatedly said that “no British prime minister would ever agree” to a separate regulatory regime for Northern Ireland, effectively erecting a customs border in the Irish Sea”. Theresa May also said that MPs should approval the withdrawal agreement “and move on” otherwise “Brexit might never happen, [sic] and voters would be betrayed” or “Britain could leave without a deal to soften the shock, a nightmare scenario for many companies”, which Jeremy Corbyn said was “more like a sign of desperation” (Piper 2019a).

Britain’s Chancellor of the Exchequer, Philip Hammond, “insisted concerns about the backstop were overblown, saying that while they were “valid in strictly legal terms”, these were “not real-world problems”” (Parker and Giles 2019). Philip Hammond also claimed that “there is nobody in the EU I’ve ever come across who thinks the UK could be held in perpetuity in an arrangement that was detrimental to its interests against its will” and he asked “Who is going to enforce such an arrangement on this? How is the world’s sixth-largest economy going to be held in a necklock?” (Parker and Giles 2019). Nevertheless, it was reported that a crowdfunding website raising money for David Trimble’s action challenging the backstop solution’s legality under the GFA (Moriarty 2019) reported that the case couldn’t be heard in a court of law “because no final decision has yet been taken on the backstop and therefore there is nothing for a court to review” (Campbell 2019a) although the legal arguments were being used “to inform and equip the UK government” (CrowdJustice, as cited in Campbell 2019a).

On 9th March 2019, Michel Barnier reassured Britain that it was free to leave a single customs territory, which was rejected by Theresa May and the DUP because Northern Ireland would remain in the single customs territory (Mudie 2019). The House of Commons Northern Ireland Affairs Committee published an interim report (Www.parliament.uk 2019g) on the backstop solution and the implications of a hard border between Northern Ireland and the Republic of Ireland. According to the report, a technical solution for the border between Northern Ireland and the Republic of Ireland would be a “world-first” that “could be designed, trialled and piloted within the 21-month implementation period” (Www.parliament.uk 2019h, Conclusions and recommendations, paragraph 8; Preston 2019) and “facilitative arrangements and technologies will also be considered in

developing any alternative arrangements for ensuring the absence of a hard border”
(Www.parliament.uk 2019h, 2 Solutions, paragraph 29).

Despite formally beginning an action challenging the backstop solution’s legality under the GFA on 12th February 2019 (Moriarty 2019), David Trimble authored a paper published by Policy Exchange on 10th March 2019 that acknowledged that there are circumstances in which the backstop solution may “undercut” the GFA rather than protect it (Bew and Trimble 2019, p.3, as cited in Russell 2019). However, the paper also claimed that the government had “succeeded in securing substantive changes that will affect and limit the impact of the Irish backstop, if it is ever put in place at the end of the transitional period” (Bew and Trimble 2019, p.3, as cited in Russell 2019). Newman (2019) claimed that if David Trimble “can live with the backstop, that should count for something”.

Although the paper claimed that “not a word of Mrs May’s Withdrawal Agreement of November 2018 – so heavily defeated twice in Parliament – has been changed”, it also suggested that “widespread war weariness on all sides is a significant factor” that could lead to the eventual approval of the withdrawal agreement (Bew and Trimble 2019, p.3, as cited in Russell 2019). However, MLA and Leader of Traditional Unionist Voice (TUV), Jim Allister, argued that Northern Ireland isn’t the “plaything of the EU” and that the backstop solution would place Northern Ireland in a “waiting room for Irish unity” (Russell 2019).

On 11th March 2019, it was reported that “Brexit talks between the UK and the EU remain deadlocked” and the Political Editor of BBC News, Laura Kuenssberg, said the chances of the withdrawal agreement being passed in the House of Commons on the following day was “very remote” (BBC News 2019b). Whilst some rejected the withdrawal agreement as they perceived it as Britain comprising with the EU, Michael Gove said it shouldn’t be rejected “for that reason alone” (BBC News 2019b). Michael Gove also defended the backstop solution, saying that he couldn’t imagine the EU “tolerating” it for long (BBC News 2019b).

In the evening of the same day, Theresa May “said she had secured “legally binding” changes to the EU Withdrawal Agreement that will prevent the backstop becoming permanent” and Jean Claude-Juncker said “in politics sometimes you get a second chance...there will be no third chance. It is this deal or Brexit might not happen at all” (Rayner and Swinford 2019b). Theresa May agreed to compromise on the backstop solution to reassure Britain that it wouldn’t be indefinite and to

reaffirm the power of the arbitration panel, which was, according to Herszenhorn, Barigazzi and Taylor (2019) “essentially the same as that put forward on Friday afternoon in a series of tweets by EU Brexit negotiator Michel Barnier”.

The second of five tweets said that “the arbitration panel can already, under Article 178 WA, give UK the right to a proportionate suspension of its obligations under the backstop, as a last resort, if EU breaches its best endeavours/good faith obligations to negotiate alternative solutions” (Barnier 2019, as cited in Herszenhorn, Barigazzi and Taylor 2019). Under Article 178(2) of the withdrawal agreement, “the complainant may implement the suspension at any moment but not earlier than 10 days after the date of the notification, unless the respondent has requested arbitration under paragraph 3” (European Commission 2018a, p.291).

Theresa May’s compromise on the backstop solution was dependent on the approval of British cabinet ministers, who rejected the proposal, which was reportedly due to objections by Geoffrey Cox (Herszenhorn, Barigazzi and Taylor 2019). One EU official claimed that Geoffrey Cox had made a negative impression in the negotiations by approaching them “with the condescending swagger of an English barrister”, and whose role was “unhelpful and even toxic”, according to other EU officials (Herszenhorn, Barigazzi and Taylor 2019). An EU diplomat “compared Cox to “a divorce lawyer who is appointed to walk away from the marriage without obligations” but who “is not interested in fair deal”” (Herszenhorn, Barigazzi and Taylor 2019). One article also claimed that “EU officials have long believed that provisions already included in the existing deal, which was agreed in November, should be sufficient to allay concerns about the Northern Ireland backstop” and concluded that “without some last-ditch deal — and a positive legal analysis by Cox — the Commons is virtually certain to reject the Brexit deal for a second time” (Herszenhorn, Barigazzi and Taylor 2019). Some feared that the Republic of Ireland’s calls for the backstop solution would be blamed in the event of a no-deal Brexit (Carroll 2019).

In her statement on Brexit assurances on 12th March 2019, Theresa May said that “a joint instrument with comparable legal weight to the Withdrawal Agreement will guarantee that the EU cannot act with the intent of applying the backstop indefinitely” (Faulconbridge, MacLellan and Smout 2019). This also “gives a legal commitment that whatever replaces the backstop does not need to replicate it” (Faulconbridge, MacLellan and Smout 2019) and includes assurances made in the letter from Donald Tusk and Jean-Claude Juncker to Theresa May (Kentish 2019) on 14th

January 2019 (European Council 2019). The EU most likely succumbed to Britain's requests in order to avoid the potential economic damage to the entire bloc in the event of a no-deal Brexit.

Theresa May also announced that alongside the joint instrument, the British government "will make a Unilateral Declaration that if the backstop comes into use and discussions on our future relationship break down so that there is no prospect of subsequent agreement, it is the position of the United Kingdom that there would be nothing to prevent the UK instigating measures that would ultimately dis-apply the backstop" (Faulconbridge, MacLellan and Smout 2019). The unilateral declaration states that "subject to Article 1(4) of the Protocol on Ireland/Northern Ireland, that the objective of the Withdrawal Agreement is not to establish a permanent relationship between the Union and the United Kingdom, and that the provisions of the Protocol are therefore intended to apply only temporarily, taking into account the commitments of the Parties set out in Article 2(1)" (Strupczewski 2019a; European Commission 2018a).

Leo Varadkar, urging the House of Commons to vote for the withdrawal agreement, said that this legal add-on didn't undermine the backstop solution or reopen the withdrawal agreement, and that it provided "the additional clarity, reassurance and guarantees sought by some to eliminate doubt or fears, however unreal, that the goal of some was to trap the UK indefinitely in the backstop. It is not. Those doubts and fears can now be put to bed" (Carroll 2019; The Belfast Telegraph 2019e). Nevertheless, in Geoffrey Cox's legal opinion on the joint instrument and unilateral declaration published in the morning of 12th March 2019 (GOV.UK 2019c), he warned that despite the legal add-ons that "reduce the risk" (The Belfast Telegraph 2019e; GOV.UK 2019c, p.3, paragraph 17), of an indefinite backstop solution, there was still an "unchanged" legal risk "simply because of intractable differences" (The Belfast Telegraph 2019e; GOV.UK 2019c, p.3, paragraph 19; ITV News 2019b).

It was reported that "in a statement to the Commons, Mr Cox later said that "were such a situation to occur, let me make it clear, the legal risk as I set it out in my letter of November 13 remains unchanged" and "shadow Brexit secretary Sir Keir Starmer said Mr Cox had confirmed that "no significant changes" had been secured in two months of negotiations" (The Belfast Telegraph 2019e). Some claimed that this "significant blow to the Prime Minister's hopes of securing MPs' backing for her EU Withdrawal Agreement in the second "meaningful vote"" (The Belfast

Telegraph 2019e) was intentional because Geoffrey Cox is a Brexit supporter (The Financial Times 2019b). Some perceived this as “a signal of a deeply divided Conservative party” (Paterson 2019c).

According to Conservative Party MP Andrea Jenkyns (2019) “we should never have to ask permission to act as a sovereign country” and “when MPs voted for the Brady Amendment, which specifically outlined that Parliament wanted the backstop replaced, I do not think they had what the PM came back with from Strasbourg in mind”. Conservative Party MP, Mark Harper (2019b), referred to the Malthouse compromise and suggested “a Free Trade Agreement that uses existing practices and sensible cooperation with the EU to avoid a hard border. This would avoid the problems with the proposed backstop but would guarantee the current situation where there is no infrastructure on the border itself”.

5.3.4 The second meaningful vote

On 12th March 2019, the House of Commons had its second meaningful vote on the withdrawal agreement. The motion was defeated by 391 to 242 votes, and Michel Barnier said the EU wouldn’t offer any other agreements, claiming that it was now “the responsibility of the UK” (ITV News 2019b). Theresa May warned that the possibility of a no-deal Brexit had “significantly increased” and a spokesperson for Donald Tusk said that “we will continue our no-deal preparations and ensure that we will be ready if such a scenario arises” (Osborne 2019; Craig 2019).

The second defeat of the withdrawal agreement by a majority of 149 votes included 75 Conservative Party backbenchers, which are MPs that aren’t in the government, and some suggested that “only a new leader can find a path to an adequate Brexit” (The Times 2019b). It was the fourth largest defeat ever for a British government (Duggan 2019). Nevertheless, it was reported that Theresa May would allow Conservative Party MPs a free vote on a no-deal Brexit on 13th March 2019, meaning that they could vote according to their own beliefs rather than the Conservative Party’s official stance in order to avoid ministerial resignations, which led to some questioning her leadership (Craig 2019; Addison 2019).

In her speech after the second defeat of the withdrawal agreement, Theresa May stated that “voting against leaving without a deal and for an extension does not solve the problems we face. The EU will want to know what use we mean to make of such an extension. This House will have to answer that question. Does it wish to revoke Article 50? Does it want to hold a second referendum?”, a suggestion that some responded to with surprise because it was a proposal of the Labour Party

(Craig 2019; Addison 2019). In reference to Northern Ireland, she also acknowledged “the potential damage to the Union that leaving without a deal could do when one part of our country is without devolved governance” (Addison 2019; Craig 2019). Jean Claude-Juncker said that “any extension of the two-year Article 50 negotiation process could not go beyond May 23 unless the UK took part in European Parliament elections beginning that day” (The Belfast Telegraph 2019e). According to a spokesperson for Donald Tusk, “the EU27 will expect a credible justification for a possible extension” (Craig 2019; Osborne 2019).

On 13th March 2019, the “highly influential” (Wilcock, Robinson and Sculthorpe 2019) ERG suggested that its members and the DUP could support the withdrawal agreement if Geoffrey Cox gave clearer legal advice about how Britain could terminate it (Mason and Syal 2019). It was suggested that the withdrawal agreement could be terminated by using Article 62(1) of the Vienna Convention on the Law of Treaties (VCLT) (Mason and Syal 2019), under which:

A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:

- (a) The existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
- (b) The effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

(United Nations 1969, p.347)

Geoffrey Cox had previously acknowledged this but hadn’t included it in his final legal advice (Mason and Syal 2019; Lawyers for Britain 2019).

Conservative Party MP Owen Paterson (2019c) suggested that the Labour Party support the Malthouse compromise rather than extending Article 50 of the TEU to the dissatisfaction of the electorate, which could diminish the Labour Party’s chances in a future election. David Cameron said that a no-deal Brexit “would be a disaster for our country” (Smith and Bloom 2019; Dathan 2019b). The House of Commons passed the non-binding motion to rule out a no-deal Brexit and replace the expected withdrawal date of 29th March 2019 by 321 to 278 votes (Www.parliament.uk 2019f), despite Theresa May whipping Conservative Party MPs to vote against it, meaning that they were encouraged to vote according to the Conservative Party’s official stance rather than their own beliefs; passed the amendment to rule out a no-deal Brexit and not replace the withdrawal date, also known as the Spelman amendment, by 312 to 308 votes; and defeated the amendment for an extension that would enable a managed no-deal Brexit, also known as Plan B of the Malthouse

compromise or the second Malthouse compromise, by 374 to 164 votes (The Belfast Telegraph 2019f; Mikhailova and Maidment 2019; Goodman 2019). Newman (2019) claimed that “with no-deal [sic] out of reach, there is no incentive for the EU to provide any more concessions. That means the choices are this deal or a softer Brexit. Or no Brexit at all”.

Theresa May suggested direct rule would return in Northern Ireland in the event of a no-deal Brexit, which Michael Gove said would be a “grave step”, although some claimed that it already existed “in all but name” (Swinford 2019d). According to Conservative Party MEP David Campbell Bannerman (2019) a no-deal Brexit wasn’t possible because it would have still involved some standstill agreements to maintain the current state of affairs for an indefinite period in order to postpone decision-making. Bootle (2019) claimed that the expression ‘no-deal’ is misleading because the absence of an overarching agreement between Britain and the EU doesn’t imply that other agreements can’t be made; and suggested that the EU would be inclined to offer a better agreement if it believed that Britain aimed to leave without one.

5.3.5 The announcement of the third meaningful vote

On 14th March 2019, the House of Commons approved the motion to extend Article 50 of the TEU by 412 to 202 votes, thereby delaying Brexit; defeated all three amendments to the motion, which were for a second referendum, MPs to take parliamentary time from the government, more parliamentary time to find a majority for a different approach; and didn’t move the fourth amendment to prevent another vote on the withdrawal agreement (Www.parliament.uk 2019d; Www.parliament.uk 2019e; Walker 2019b). The motion scheduled a third meaningful vote on 20th March 2019, the day before the European Council summit on 21st and 22nd March 2019, during which the EU27 would decide on Britain’s request to extend Article 50 (Www.parliament.uk 2019d; Www.parliament.uk 2019e; Crisp 2019b) and “must unanimously approve any delay” (Stone 2019). If the House of Commons’ third meaningful vote were to pass the withdrawal agreement, Theresa May would request an extension of Article 50 until 30th June 2019 (Www.parliament.uk 2019d; Www.parliament.uk 2019e; Crisp 2019b). If the House of Commons’ third meaningful vote were to defeat the withdrawal agreement, Theresa May could request an extension beyond 30th June 2019 (Www.parliament.uk 2019e; Crisp 2019b), the length of which would depend on its purpose, and which would require Britain to hold EP elections (Www.parliament.uk 2019d) from 23rd to 26th May 2019.

One senior EU source said that “asking for a short extension is simply pre-programming no-deal [sic] Brexit for the summer” (Crisp 2019b). Leo Varadkar said “I wonder whether those who advocated Brexit two or three years ago — did they really think it would be about imposing tariffs on each other, and paperwork and quotas? ... That’s where we’re heading if we don’t have a deal” and that if Brexit didn’t happen, the EU would welcome Britain back “like the Prodigal Son” (The Times 2019a). It was reported that Simon Coveney encouraged Britain to delay Brexit in order to reconsider its withdrawal from the EU, perhaps during its potential participation in the EP elections from 23rd to 26th May 2019 (Withers 2019). It was also reported that Donald Tusk suggested that Britain could the EU could offer a prolonged extension to Article 50 beyond the EP elections if Britain were to “rethink its Brexit strategy and build consensus around it”, to which some EU27 leaders expressed opposition (Withers 2019; Waterfield and Coates 2019). Alternatively, the report suggested that a short extension could entail a general election or a second referendum on Britain’s EU membership (Withers 2019).

A statement was made by Theresa May on 15th March 2019 (Www.parliament.uk 2019c) following the defeat of the withdrawal agreement in the second meaningful vote on 12th March 2019 under section 13(4) of the European Union (Withdrawal) Act 2018 (Legislation.gov.uk 2018). Under section 13(6)(a) of the European Union (Withdrawal) Act 2018, an amendable motion was to be put forward within 7 House of Commons sitting days beginning on the day on which the statement is made, therefore by 25th March 2019 (House of Commons Hansard 2019a; Legislation.gov.uk 2018; Heffer and McGuinness 2019).

It was reported that Geoffrey Cox had a deadline of 17th March 2019 to update his legal advice before the third meaningful vote (Coates and Mays 2019) on 20th March 2019. Nevertheless, the DUP rejected Geoffrey Cox’s “badly misconceived” new legal advice, which suggested that Britain could unilaterally use the VCLT to terminate the backstop solution (Coates and Mays 2019) if it had a “socially destabilising effect on Northern Ireland” and could be considered a “fundamental change” of circumstances under Article 62 (Swinford 2019c). It was argued that “given the high burden that a state must meet to use it, and given the extreme reluctance of international courts and tribunals to accept it”, the VCLT “supplies no assurance whatsoever that the UK could terminate the withdrawal agreement in a lawful manner” (Coates and Mays 2019).

Martin Howe, Chairman of Lawyers for Britain, described Geoffrey Cox's new legal advice as "a non-starter", argued that a change of circumstances concerning the backstop solution couldn't be unforeseeable if it had already been spoken about, and stated that the fall of the Soviet Union and the dissolution of Czechoslovakia weren't sufficient changes in circumstances for the Gabčíkovo-Nagymaros barrage project case between Hungary and Slovakia in the United Nations (UN)'s International Court of Justice (ICJ) (Cecil 2019). Lawyers for Britain (2019) claimed that "plainly the prospect of deadlock was not only foreseeable but actually foreseen"; and that a change of circumstances concerning the backstop solution wouldn't radically transform the extent of obligations still to be performed under the treaty, which is required under Article 62(1)(b) of the VCLT (United Nations 1969). Martin Howe concluded that "the consensus of the lawyers who have looked into this argument under Article 62 of the Vienna Convention is that it is hopeless, and that consensus includes public international lawyers of the highest standing". According to the House of Commons Library (2018, as cited in Cecil 2019), "the VCLT sets out limited circumstances in which a treaty can be denounced" and "a continuation of the backstop would not be a 'fundamental change of circumstances' within the meaning of the VCLT".

Moreover, "the Withdrawal Agreement is a treaty between the UK (a state) and the EU (an international organisation), whereas 'treaty' is defined in the VCLT as an agreement between states; and the Vienna Convention involving international organisations is not yet in force" (House of Commons Library 2018). According to Article 85 of the VCLT between States and International Organisations or between International Organisations, which is an extension to the VCLT, "the present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession by States", and it had been ratified by 32 states and 12 international organisations as of February 2019 (United Nations Treaty Collection 2019).

A paper published by Policy Exchange claims that the EU would be in breach of the "good faith" (European Commission 2018a, p.12) and "best endeavours" (European Commission 2018a, p.308) obligations respectively under Article 5 of the withdrawal agreement and Article 2(1) of the Protocol on Ireland/Northern Ireland "if it persistently and unreasonably refused to conclude an agreement that would replace or supersede the backstop" (Verdirame, Laws and Ekins 2019, p.3, as cited in Forsyth 2019c). For example, it would be "a very serious risk of breach" (Verdirame, Laws and Ekins 2019, p.10) if it didn't advance any proposals other than Britain's membership of the ESM and EUCU. According to Forsyth (2019c), if the backstop solution became permanent, it

would undermine the GFA, and British-EU cooperation would replace North-South cooperation. Forsyth (2019c) concludes that the risk of Britain remaining in the backstop solution indefinitely “is clearly now negligible”.

It was reported that the EU required Theresa May to “hold a second referendum or soften Brexit in return for them granting a lengthy delay to Britain’s departure date” (Waterfield and Coates 2019). Additionally, it was reported that a document published by the EU stated that “no extension should be granted beyond 1 July unless the European Parliament elections are held at the mandatory date” because a withdrawing member state is legally bound to participate, otherwise the EU institutions would “cease being able to operate in a secure legal context” (Barigazzi 2019). Moreover, the document states that “if an initial extension puts the withdrawal date after the date of the European Parliament elections, and if these elections were not organised by the withdrawing State, this would make any further extension impossible” (Barigazzi 2019).

Conservative Party MEP, Ashley Fox, told other MEPs to reflect on whether they’d like to stand for re-election in the EP elections before the third meaningful vote on 20th March 2019, even though the EP had already agreed on the reduction and redistribution of seats after Brexit (de La Baume 2019). According to Schaart (2019a), EP seats would be reduced from 751 to 705 after Brexit. One EP spokesperson said that “if the extension includes the beginning of the next legislature, we might end up having British MEPs voting for the next president of the European Commission and leaving some weeks later” (de La Baume 2019).

The Republic of Ireland’s Minister for Finance, Paschal Donohoe, warned of “the need to avoid a scenario of rolling cliff edges, where there is a sense now that we just came through one but the next one that is approaching is the real one” (Rosca 2019). He also said that “there are many in the European Union that would want to be very clear on how this extension period will be used”, and that some of the EU27 leaders oppose an extension of Article 50 of the TEU beyond the EP elections, or at the latest beyond 2nd July 2019, when the EP’s new term starts (Bruce and Wilson 2019).

Samuel (2019) suggested that some Conservative Party MPs were considering collaborating with Labour Party MPs in a motion of no confidence in the government of Theresa May in order to collapse it, subsequently prevent legislation from being amended, and make Brexit legally binding;

even though an interim Prime Minister could still postpone Brexit. Whilst Nigel Dodds said that Britain's constitutional integrity "remains sacrosanct and above everything else", he admitted that "the Government needs to have a change of leadership in a number of departments", particularly in the "dysfunctional" NIO (Whale 2019).

Nigel Dodds referred to Karen Bradley who "said killings during the Troubles at the hands of the security forces were not crimes" and "was not aware before she became NI Secretary that elections in Northern Ireland are fought along constitutional lines, as "people who are nationalists don't vote for unionist parties and vice versa"", claiming that "her basic policy approach has been flawed in the sense that she has decided that Northern Ireland could just stand still, leave it to the civil servants" (Whale 2019). He also called on ministers to revisit paragraph 50 the joint report from the negotiators of the EU and the British government published on 8th December 2017, which "will ensure that no new regulatory barriers develop between Northern Ireland and the rest of the United Kingdom, unless, consistent with the 1998 Agreement, the Northern Ireland Executive and Assembly agree that distinct arrangements are appropriate for Northern Ireland" (Taskforce on Article 50 2017, p.8, paragraph 50).

On 16th March 2019, Nigel Dodds met with Philip Hammond; Michael Gove; and Chief Whip of the House of Commons, Julian Smith; for "constructive" talks on resolving the issue of the backstop solution (The Belfast Telegraph 2019). Philip Hammond's presence led to speculations that Northern Ireland could be offered extra funding in exchange for supporting the withdrawal agreement, which the DUP denied (The Belfast Telegraph 2019d; Singh 2019). According to Singh (2019), "instead, the party views the issue of the union as too fundamental to be dictated by money and does not believe voters in Northern Ireland will accept it backing down simply in exchange for additional funding". Sammy Wilson said that "the issues at stake are far too high to simply say it can be resolved with financial incentives" (The Belfast Telegraph 2019a).

Forsyth (2019b) suggested that a free vote for the third meaningful vote would improve the chances of Labour Party MPs voting for it. He also claimed that the DUP could also be encouraged to support the withdrawal agreement in the third meaningful vote if the bill that would incorporate the withdrawal agreement into British law included "a requirement that there be no divergence between Northern Ireland and Great Britain", which would reassure them that the next Prime Minister couldn't exclude Northern Ireland from a withdrawal agreement (Forsyth 2019b). However, Peston

(2019b) argued that this is would be “a high-risk [sic] offer” because such legislation could be repealed and therefore such a reassurance couldn’t be guaranteed.

It was also reported that Arlene Foster and Nigel Dodds were participating in negotiations about a two-part plan that would guarantee Britain and Northern Ireland equal treatment in terms of the ESM and EUCU after Brexit, and ensure that DUP MPs would be “deeply involved” in future trade agreement negotiations (Hope and Mikhailova 2019), the latter of which the DUP denied (Singh 2019). According to Peston (2019b), the offer involved “a promise that if the controversial backstop is ever triggered, Great Britain would adopt any new food and business rules that could be forced by the EU on Northern Ireland”. Peston (2019b) argued that the EU would still be responsible for checking goods and food arriving in Northern Ireland from Britain according to EU standards if Britain were to accept regulatory alignment, namely adhering to EU trade law (The UK in a Changing Europe 2019a), under the backstop solution; and that the offer didn’t address the DUP’s request for the potential divergence of business and food regulations between Britain and Northern Ireland to be removed from the withdrawal agreement.

Theresa May suggested that supporting the withdrawal agreement was MPs’ patriotic duty, and claimed that “a failure to support that improved deal would open up a range of undesirable alternatives, from not leaving the EU as scheduled on 29 March, to the risk of a second referendum, a general election or the increased possibility of leaving without a deal” (May 2019; D. Hughes 2019a). She said that delaying Brexit would be a “potent symbol of parliament’s collective political failure and participating in the EP elections from 23rd to 26th 2019 almost three years after the referendum “hardly bears thinking about” (May 2019; D. Hughes 2019a), although the prospect of Britain not participating but remaining a member state after the elections wasn’t ideal (Patel 2019). Philip Hammond said that some MPs had decided to support the withdrawal agreement because the alternatives were “so unpalatable” (D. Hughes 2019a). Matthew Elliot (2019) said that the withdrawal agreement was “far from perfect”, but claimed that he “would rather opt for the risk of a customs union later – a risk that has diminished in recent weeks – than the very real risk of a permanent customs union now. The choice isn’t enviable, but the safer option is clear” (D. Hughes 2019a).

Peston (2019c) argued that Theresa May should only hold the third meaningful vote if the support of the ERG and DUP was guaranteed, which he claimed was unlikely, although possible if they

were guaranteed a role in negotiating an agreement that supersedes the backstop solution, and because “DUP MPs and politicians increasingly seem embarrassed by their central role in derailing Brexit”. Singh (2019) claimed that the DUP, along with other MPs of other parties, wouldn’t “waste valuable political capital” by supporting the withdrawal agreement in the third meaningful vote in case it was defeated again, unless it was convinced that it could be approved by the House of Commons with enough support from Conservative Party and most likely also Labour Party MPs.

However, some claimed that many Conservative Party MPs wouldn’t support the withdrawal agreement until the DUP would, leading to a political deadlock (Singh 2019). Peston (2019c) suggested that if Theresa May reduced her loss she may even hold a fourth meaningful vote to encourage Labour Party MPs to vote in favour of the withdrawal agreement against the instructions of Jeremy Corbyn, although one minister said that “there’s no point Labour MPs taking s**t from members for voting with us unless they think we can actually win the vote”. The Sun (2019b) claimed that the Labour Party MPs who support a softer Brexit could achieve it through supporting the withdrawal agreement, and that those who didn’t support the withdrawal agreement were unlikely to support a no-deal Brexit but more likely the only remaining Brexit options of a second referendum or the revocation of Article 50 of the TEU; and suggested that the Labour Party should provide more clarity on their stance.

Philip Hammond announced that the third meaningful vote will only happen if the withdrawal agreement can gain enough support (D. Hughes 2019a), and may even be postponed to the following week (Rayner 2019), the same week that Britain was expected to formally withdraw from the EU. One option being considered in Philip Hammond’s talks with the DUP was legislation that “any new regulations imposed on Northern Ireland would either be adopted by the entire UK or not at all”, also known as the Stormont lock (Shipman and Wheeler 2019; The Belfast Telegraph 2019b) and additional checks occurring between Britain and Northern Ireland (Singh 2019).

Singham (2019b) claimed that the Stormont lock would increase the possibility of regulatory alignment and Britain’s ongoing membership of the EUCU; and subsequently Britain could become susceptible to “potentially damaging action by the EU” and prevented from having an independent trade policy. Philip Hammond said that talks focused on preventing a regulatory border in the Irish Sea; and denied that Northern Ireland could be offered extra funding in exchange for supporting the withdrawal agreement, although he “acknowledged that funding issues would come up in the

forthcoming spending review” (The Belfast Telegraph 2019b) that he intended to begin before the summer recess (Inman 2019).

Shadow Chancellor of the Exchequer, John McDonnell, tweeted that “if Philip Hammond’s presence at the talks with the DUP is an indication that the Tories are offering the DUP another bung in [sic] return for their support for May’s Brexit deal [sic], I am warning the PM that she is in danger of destroying all confidence in our political system” (McDonnell 2019a, as cited in The Belfast Telegraph 2019b). He concluded that “it will rightfully be seen by the British electorate as corrupt politics and will demean our political system in the eyes of the world. Who could ever again trust the probity of our system of government?” (McDonnell 2019b, as cited in The Belfast Telegraph 2019b).

Simon Coveney presumed that Theresa May’s request for an extension of Article 50 of the TEU would be accompanied by a plan to be presented at the European Council summit on 21st and 22nd March 2019 that would “mean seeking time to build consensus around a new approach to Brexit coming from London but of course that brings with it a lot of uncertainty” (The Belfast Telegraph 2019c). It was reported that Leo Varadkar would meet Donald Tusk on 19th March 2019 regarding Theresa May’s request for an extension of Article 50 of the TEU, and that the President of the Republic of Ireland, Michael D. Higgins, had signed the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill (The Belfast Telegraph 2019c; Houses of the Oireachtas 2019; Heffer and McGuinness 2019).

Vince Cable accused Theresa May of “putting a higher priority on keeping the Conservative Party together than maintaining peace in Northern Ireland in her efforts to revise the Brexit deal’s backstop” and argued that “none of the several mutually exclusive versions of Brexit on offer - soft or hard - are as good as the deal we currently have” (D. Hughes 2019b). He claimed that “it really is quite shocking that this Government is so lacking in talent that it employs a Secretary of State for Northern Ireland who says she doesn’t understand sectarian voting patterns and then compounds this public declaration of ignorance with a blatantly and naively one-sided view of the killings in the Troubles”, referring to Karen Bradley. He concluded that Karen Bradley “has revealed an ugly truth: that peace in Ireland matters less than peace in the Conservative Party” and that the proposal to remove the backstop solution “speaks volumes about the underlying motives of those who

demanding Brexit and now demand a ‘clear Brexit’. They simply deny our history, which is entwined with that of Ireland” (D. Hughes 2019b).

Some MPs wrote to various media outlets, some in favour of withdrawal agreement (Devlin 2019; Devlin and Waterfield 2019); but in opposition (Paterson 2019b). Some claimed that their support for the withdrawal agreement in the third meaningful vote was dependent on the support of the DUP and Theresa May standing down before the next stage of the negotiations (Devlin and Waterfield 2019). However, Syal (2019b) claimed that it would be unlikely that the DUP would support the withdrawal agreement in order for it to be concluded by 18th March 2019 in sufficient time before the European Council summit on 21st and 22nd March 2019. Liam Fox said that “if you really want to deliver the Brexit we all promised... then we need to back the prime minister’s deal because there is no other deal on offer” and that “if we had an extension with no agreement and this was just kicking into the long grass with the chance that Brexit might not happen at all, that would be very, very hard for most people to swallow” (Devlin 2019; D. Hughes 2019a).

According to D. Hughes (2019a), “the possibility of Brexit being delayed or overturned in a second referendum is swinging some Eurosceptics reluctantly behind the deal”. However, Gye (2019) claimed that some Conservative Party MPs who supported Britain remaining in the EU were considering supporting Labour Party MPs’ amendment for a second referendum, also known as the People’s Vote, which would give the public the choice of leaving the EU under the withdrawal agreement, or permanently remaining in the EU. Regarding a no-deal Brexit, Conservative Party MP and former Secretary of State for Work and Pensions, Esther McVey, said that “after the votes in the House last week that isn’t the option facing us any more” and concluded that “no-deal [sic] has been removed, Article 50 has been extended, the date was removed - so the choice is this deal or no Brexit whatsoever” (Casalicchio 2019).

Former Conservative Party MP and Chancellor of the Exchequer, Norman Lamont (2019), claimed that “the legitimacy of the ‘mandate’ from 17.4million voters will diminish the further we get from the referendum” and expressed support for the withdrawal agreement in order to be removed from the “threat” of “needless unnecessary political integration” and “a new country called Europe” in the hope of achieving more in the future negotiations with a different Prime Minister. He concluded that “this opportunity will never happen again, [sic] and history will not understand if it is Conservative MPs who prevent us reclaiming our self-governance [sic]” (Lamont 2019)

Some SNP MPs who identified themselves as “among the many SNP Leave voters whose views have not been represented in the Commons debates” argued that the withdrawal agreement “is the only thing” that would ensure that Brexit happens, and that defeating it would “hand control to a Remain majority determined to keep us in the EU” (Johnson 2019), which Conservative Party MP and former Secretary of State for Exiting the European Union, David Davis, said would be “a betrayal that would reap a democratic whirlwind” (Davis 2019). He concluded that the withdrawal agreement is “capable of rescue” and that “the alternative would be a cascade of chaos, eventually ending in a remainder attempt, first to delay Brexit by a long time and then reverse it”, an outcome that the government wouldn’t survive “since it would have failed to deliver on the referendum, on our manifesto and on the most important issue affecting the destiny of our country in our generation” (Davis 2019; D. Hughes 2019a). On 18th March 2019, some MPs in opposition to the withdrawal agreement claimed that a no-deal Brexit “will prove to be the precursor to a very good deal indeed” and claimed that “it is not our fault that we are confronted by two unacceptable choices, but it will be our fault if we cast a positive vote in favour of either for fear of the other” (The Telegraph 2019; Paterson 2019b).

5.3.6 The ruling against the third meaningful vote

On 18th March 2019, John Bercow invoked a 1604 parliamentary convention from page 397 of Erskine May, a book of parliamentary practice (RTÉ 2019b). According to the convention, which hadn’t been used for almost 100 years, the same matter can’t be voted on twice in the same parliamentary session (RTÉ 2019b). John Bercow’s invocation of the parliamentary convention was to prevent the third meaningful vote from occurring, and he claimed that a third meaningful vote would require a “substantial change” to the withdrawal agreement (RTÉ 2019b). John Bercow’s interpretations of parliamentary conventions are binding “unless there is a majority vote to break with an invoked ruling” (RTÉ 2019b).

Some in opposition to the withdrawal agreement welcome John Bercow’s ruling and said that they would rather Theresa May request for an extension of Article 50 of the TEU than support the withdrawal agreement, believing that an extension might give them a greater influence over the final Brexit outcome (Coates and Wright 2019). It was reported that ministers expected a maximum nine-month delay, which would require Britain to participate in the EP elections from 23rd to 26th May 2019 (Peston 2019a) if it were to still be an EU member state beyond 2nd June 2019

(Baczynska 2019a), an ongoing legal debate that Patel (2019) claimed “may work in Theresa May’s favour, as she could use it to persuade rebel Brexiteer MPs to back her deal”.

However, for those in favour of the withdrawal agreement, John Bercow’s ruling initiated a “major constitutional crisis”, and led to accusations of John Bercow having pro-EU bias because he voted for Britain to remain in the EU in the referendum (Rayner, Swinford and Hope 2019). According to The Sun (2019c), “the same man who two months ago trashed centuries of procedure to help Remainers now says we must stick rigidly to ancient rules”. This was presumably in reference to the controversial amendment put forward by Dominic Grieve on 9th January 2019 to a government business motion that some claimed shouldn’t have been amendable and therefore shouldn’t have been accepted by John Bercow (ITV News 2019c). White (2019) claimed that John Bercow saying that a second vote on MPs taking parliamentary time from the government or a second referendum would depend on the “circumstances” was “one rule for the Government, and a different one for everyone else” and claimed that “there is little that Conservative MPs can do about this – they don’t have the votes”.

According to ITV News (2019a), a British government source said that John Bercow’s motive was “to rule out an MV (meaningful vote) this week which also stands in the way of a securing a shorter extension”, and that “what he really wants is a longer extension, where Parliament will take over the process and force a softer form of Brexit”. However, according to McKinstry (2019), “Bercow’s intention with his veto may have been to sabotage Brexit. But he could end up achieving the exact opposite”. Moreover, Conservative Party MP, James Cleverly, claimed that John Bercow’s ruling should have been made before the second meaningful vote as it may have influenced more MPs to vote in favour of the withdrawal agreement (Deacon 2019).

Regarding the alleged attempts to prevent Brexit from occurring, Grimes (2019) claimed that:

It started even before the referendum when David Cameron banned the Civil Service from preparing for Leave winning the referendum, forcing the new post-referendum government to start a delivery plan from scratch. It continued when Philip Hammond refused to allow vital spending on no-deal preparation. And it’s ending with attempts by Remain MPs like Hilary Benn to “take control” of parliamentary business so he can ride roughshod over our vote - enabled by a disgracefully partisan Speaker in John Bercow.

Despite David Cameron saying that “the Civil Service are working round the clock to support my negotiation” before Britain’s referendum on EU membership and “overseeing such “apocalyptic”

warnings” (Parfitt 2016) in the British government’s report on the process for withdrawing from the EU published on 29th February 2016 (GOV.UK 2016), some Eurosceptic MPs said that David Cameron stopping civil servants from developing contingency plans was “total hypocrisy”, “totally irresponsible”, and “disgraceful” (Parfitt 2016). After Britain’s referendum on EU membership, Conservative Party MP and former Secretary of State for Work and Pensions, Iain Duncan Smith, criticised Philip Hammond and the British Treasury for “acting like government saboteurs - hell bent on wrecking Brexit” by resisting spending increases on no-deal Brexit planning “even if it strengthened Theresa May’s negotiating hand and is likely the cash will never have to be spent” because “it would send the message to Brussels that Britain really is ready to walk away” (Cole and Hawkes 2018).

The Solicitor General for England and Wales, Robert Buckland, and suggested that Theresa May could bypass John Bercow’s ruling by requesting the Queen to discontinue and restart the parliamentary session (Rayner, Swinford and Hope 2019), known as proroguing parliament (White 2019; McTague 2019), which usually begin and end in the spring (Www.parliament.uk 2019l), because John Bercow’s ruling would then no longer apply and the third meaningful vote could be the first item of business. However, in this case, an extension of Article 50 of the TEU would still need to be requested because the House of Commons’ approval of the withdrawal agreement by 29th March 2019 still wouldn’t be feasible, and the government would need to gain the unlikely support of every Conservative Party and DUP MP for the Queen’s Speech (White 2019) “in a required vote following six days of debate on the speech’s contents. Traditionally, if the government fails to win parliament’s backing for the Queen’s Speech, the prime minister is forced to resign” (Wright 2019).

White (2019) and McTague (2019) argued that Theresa May could bypass John Bercow’s ruling by introducing an extension of Article 50 of the TEU until the end of June and ruling out further extensions to the motion, which John Bercow could consider a “substantial change” to the withdrawal agreement (RTÉ 2019b). The Sun (2019c) suggested that presenting an extension to Article 50 of the TEU alongside the withdrawal agreement could be considered a substantial change. White (2019) suggested a paving motion “stating that it is the will of the House to have another vote on the deal” (McTague 2019), which would enable the government to resubmit the withdrawal agreement for another vote, although this would be unlikely because of the substantial defeats in the first and second meaningful votes (White 2019). White (2019) also suggested changing the provisions in the British parliament’s 2018 European Union (Withdrawal) Act and

adopting legislation to ensure that there would be no limit to how many times the withdrawal agreement could be resubmitted. It was also suggested that Theresa May could negotiate supplementary agreements with the EU or introduce some changes to the non-binding political declaration (RTÉ 2019b; European Council 2018b).

Conservative Party MP, Nick Boles, tweeted “not sure what all the fuss is about. If the PM thinks she has a majority for a third meaningful vote, she will also have a majority for a motion to set aside the Speaker’s ruling on the Erskine May convention. If she doesn’t, no point making the attempt” (Boles 2019, as cited in Heffer and McGuinness 2019). According to McTague (2019), “Theresa May’s problem is less the ruling Monday from Speaker John Bercow that she cannot keep bringing her deal back to parliament hoping for a different answer, than the fact she does not have a majority” and “the route out of her crisis is to assemble a majority for a course of action — any course of action”. Stephen Barclay said that “the speaker himself has said that where the will of the house is for a certain course of action it is important that that does follow. But the speaker’s ruling does raise the bar. Clearly, if members of parliament themselves are changing their vote, that does suggest that circumstances have changed” (McTague 2019).

Simon Coveney said that John Bercow’s ruling was “yet another problem” (Waterfield 2019b). According to McTague (2019) “Bercow’s ruling is a pain for the government. But the real cause is the same problem that has existed since November: Theresa May cannot muster a majority behind her deal”. The EU27 were pessimistic that Theresa May could gain parliamentary support for the withdrawal agreement, Guy Verhofstadt questioned the EU27’s consideration of a request for an extension of Article 50 of the TEU if the third meaningful vote is cancelled (Waterfield 2019b), which could delay a decision on granting the extension until “one hour before” Britain was expected to formally withdraw from the EU on 29th March 2019 at 23:00 GMT (Rayner, Swinford and Hope 2019). Donald Tusk suggested a fourth meaningful vote the week after the European Council summit on 21st and 22nd March 2019 (Waterfield 2019b).

5.3.7 The extension of Article 50 of the Treaty on European Union

Theresa May set 19th March 2019 as a deadline for Conservative Party MPs to approve her withdrawal agreement (Hammond 2019). Despite Geoffrey Cox reportedly updating his legal advice to provide assurances to the DUP and Brexit supporters that Britain “could leave the backstop in exceptional circumstances under international law” (Singh 2019), some Conservative Party MPs asserted that they would abstain from future votes on the withdrawal agreement and

threatened to end Theresa May's premiership if Article 50 of the TEU was extended; and some ERG members were reportedly considering going on strike, which could collapse Theresa May's minority government (Hammond 2019).

It was reported that Theresa May said that Britain was in a "crisis" after John Bercow invoked the 1604 parliamentary convention to prevent the third meaningful vote, and that she did not believe that holding a general election would be in the "national interest" (Heffer and McGuinness 2019). It was also reported that British cabinet ministers told Theresa May that the Conservative Party would only accept a three-month extension of Article 50 of the TEU rather than a nine-month or even twelve-month extension (Groves, Stevens and Churchill 2019) with an exit clause upon MPs' potential approval of a withdrawal agreement (Heffer and McGuinness 2019).

Some British cabinet ministers speculated that Theresa May would request an extension of up to two years and considered resigning in such circumstances, claiming that a cancellation of Brexit could mean "the end of the Conservative Party" and fearing that The Conservative Party would lose support in the British local elections on 2nd May 2019 (Rayner and Swinford 2019a). Theresa May reportedly wrote to Donald Tusk to request both a short and long extension and ruled out cancelling Brexit altogether by revoking Article 50 of the TEU (Duggan 2019). Some ERG members suggested that one of the EU27 would veto Theresa May's request for an extension of Article 50 of the TEU in order to increase the possibility of a no-deal Brexit on 29th March 2019 as expected (Hope 2019). It was reported that "at least three European Union countries are ready to block any extension to the Brexit talks, unless Theresa May can convince them she has a credible plan" (Crisp 2019a) particularly France, which "stands to suffer the most economic damage because of its close links to Britain" (The Financial Times 2019a). However, Patel (2019) claimed that "it is unlikely that any Member States will take the diplomatic risk of breaking the EU's impeccable unity and veto extension".

According to Patel (2019), Britain could request a short extension to gain approval for the withdrawal agreement; or a long extension for a general election, second referendum, or pursuance of a softer Brexit. However, Michel Barnier said that "any long Brexit delay would pile on economic and political costs for the European Union", and claimed that it needed to be assessed against potential benefits (Baczynska 2019a). Nevertheless, Patel (2019) claimed that "the necessity of avoiding no-deal on 29 March outweighs the need to have precise clarity on what the UK wants

to do”, although “the prolongation of uncertainty for a few more months, and the potential deferral of no-deal, may be more economically damaging than no-deal on 29 March”. Patel (2019) also referred to the “best endeavours” (European Commission 2018a, p.297) obligation under Article 184 of the withdrawal agreement, claimed that “a no-deal Brexit offends all that EU constitutional law holds dear, in terms of rights protection, the rule of law, and the duty of cooperation”, and concluded that “as such, if the UK’s request for extension was reasonable, it would not be cooperative nor in the spirit of the EU’s values to refuse an extension” (Patel 2019).

Michel Barnier said that Britain would need to present a “concrete plan” to the EU27, whose duty was “to ask whether this extension would be useful. It would extend uncertainty and uncertainty costs. We cannot prolong uncertainty without having a good reason for it” (Baczynska 2019a). He also claimed that an extension “would only make sense if it increased the chances of the already agreed deal being ratified by Britain” (Baczynska and Strupczewski 2019); and that Theresa May couldn’t simultaneously request both a short and long extension, as the latter would require a new proposal or development (Baczynska 2019a).

Michel Barnier also suggested that a short extension until the end of June wouldn’t suffice and could lead to another extension request, but also feared that Britain remaining in the EU and not holding a third meaningful vote could jeopardise the British parliament’s legitimacy (Baczynska 2019a). Subsequently, the EU finalised contingency legislation for a no-deal Brexit to mitigate disruptions to fisheries and transport, as well as prolong student exchange programmes (Baczynska 2019a; European Parliament 2019). Michel Barnier reiterated that the EU was willing to alter the political declaration in order to increase the likelihood of the House of Commons’ approval of the withdrawal agreement but wouldn’t renegotiate the withdrawal agreement itself, and concluded that “voting against no-deal does not prevent it from happening” (Baczynska 2019a). He urged the finalisation of “all preparations for no-deal scenario. On the EU side, we are prepared” (Baczynska 2019a).

On 20th March 2019, it was reported that Theresa May said “As Prime Minister, I could not consider a delay further beyond the 30th of June” (T. Harris 2019) and reportedly implied that she would resign in the event of an extension of Article 50 of the TEU beyond 30th June 2019 (Heath 2019). Theresa May wrote to Donald Tusk formally requesting an extension to Article 50 of the TEU until 30th June 2019 under Article 50(3) of the TEU, stating that she intended to “bring

forward further domestic proposals that confirm my previous commitments to protect our internal market, given the concerns expressed about the backstop” (GOV.UK 2019b; Bonde 2009).

Newman (2019) claimed that Brexit “risks being killed off entirely by the very MPs who claim to love it the most — Conservative backbench Eurosceptics still chasing -fantasy Brexits”. Stephen Barclay announced that the British Treasury’s no-deal contingency plan concerning the economy, trade, customs, and citizens’ rights; also known as Operation Yellowhammer; would be implemented on 25th March 2019 unless a new withdrawal date is agreed (Hammond 2019).

It was reported that according to a leaked internal EU diplomatic note, Theresa May’s request for an extension of the TEU would consist of a “binary” choice of a short extension to before 23rd May 2019, the start of the EP elections; or a long extension until at least the end of 2019 and require Britain to participate in the EP elections from 23rd to 26th May 2019 (Stone 2019). Stone (2019) argued that the former may be insufficient, and the latter may not receive the support of the Conservative Party and the British cabinet. According to the leaked internal EU diplomatic note, “this is the only way of protecting the functioning of the EU institutions and their ability to take decisions” and “any other option (as for example an extension until 30 June 2019) would entail serious legal and political risks for the European Union and would import some of the current uncertainties in the United Kingdom into the EU27” as well as “direct legal and practical consequences for the election of Members to the European Parliament in 14 of our Member States” because the EP had already agreed on the reduction and redistribution of seats after Brexit (Stone 2019). In the event of a long extension, the note suggested Britain’s “constructive abstention” on long-term issues with the EP, such as the budget (Stone 2019).

In her statement at the European Council on 21st March 2019, Theresa May announced that Britain was expected to formally withdraw from the EU on 22nd May 2019 at 23:00 GMT if the withdrawal agreement would be approved and ratified by the House of Commons by 29th March 2019; or 12th April 2019 at 23:00 GMT if the withdrawal agreement wouldn’t be approved by the House of Commons, when Britain would “either leave with no deal, or put forward an alternative plan” (GOV.UK 2019a; Miller 2019; EUR-Lex 2019), “such as a move towards a soft Brexit, second referendum or general election, to secure a longer extension and avoid a no-deal exit from the bloc” (Boffey 2019a).

Howe (2019) criticised the extension of Article 50 of the TEU before the British parliament's approval of a draft SI, which was required under paragraph 14 of Schedule 7 of the European Union (Withdrawal) Act in order to alter the date when Britain was expected to formally withdraw from the EU according to section 20(1) of the European Union (Withdrawal) Act (Legislation.gov.uk 2018; Miller 2019). He claimed that if the House of Commons were to defeat a draft SI in the future, this could result in Britain's domestic law not corresponding to the new internationally-agreed formal withdrawal date, which wouldn't prevent Britain from remaining in the EU (Howe 2019).

Theresa May welcomed the European Council's approval of legally binding assurances concerning the backstop solution negotiated on 11th March 2019 (Rayner and Swinford 2019b) that she said "should give extra assurance to Parliament that, in the unlikely event the backstop is ever used, it will only be temporary; and that the UK and the EU will begin work immediately to replace the backstop with alternative arrangements by the end of December 2020" (GOV.UK 2019a). In response to speculation that the British government could to strengthen the role of the NIA in domestic law in order to gain the DUP's support for the withdrawal agreement, Michelle O'Neill rejected the possibility of the DUP vetoing the backstop solution through a petition of concern (The Belfast News Letter 2019).

On 22nd March 2019, it was reported that if the withdrawal agreement hadn't been approved but Britain had decided before 12th April 2019 not to hold EP elections from 23rd to 26th May 2019, there would be a no-deal Brexit. If the withdrawal agreement hadn't been approved and Britain had decided before 12th April 2019 to hold EP elections from 23rd to 26th May 2019, there would be a long extension of Article 50 of the TEU until 31st December 2019 or beyond, which may include further conditions, such as elections or second referendum (Wright, Waterfield and Devlin 2019).

According to Parker, Barker and Hughes (2019) Theresa May was willing to accept a no-deal Brexit in the event of the withdrawal agreement wouldn't be approved in the third meaningful vote as she didn't want Britain to participate in the EP elections, although they argued that she would be under even more pressure to resign in this case. Some Conservative Party MPs had already asked her to resign due to her management of Brexit (Swinford, Hope and Maidment 2019; Coates and Elliott 2019). Some speculated that MPs could attempt to take parliamentary time from the government in order to prevent a no-deal Brexit; or Conservative Party MPs who supported Britain remaining in

the EU could collaborate with Labour Party MPs in a motion of no confidence in the government of Theresa May, which could lead to a general election, rather than “crash the economy” (Parker, Barker and Hughes 2019). It was also reported that Jeremy Corbyn met EU negotiators regarding an alternative agreement that he intended to gain MPs’ support for in order to prevent a no-deal Brexit (Cooper 2019a).

Some Conservative Party ministers who supported Britain remaining in the EU announced that they would resign if Theresa May wouldn’t give them a free vote on an amendment for parliament to decide whether to accept a longer extension rather than the Prime Minister (Swinford and Maidment 2019). Moreover, Maidment and Swinford (2019) claimed that Theresa May could lose even more support for her withdrawal agreement as a result of her criticising the British parliament for not previously supporting her withdrawal agreement and the subsequent lack of progress in the Brexit negotiations.

It was also reported that, due to the uncertainty of the withdrawal agreement being approved in the third meaningful vote, the government was considering giving parliament a vote on seven alternatives, including the revocation of Article 50 of the TEU, a second referendum, the withdrawal agreement, the withdrawal agreement and remaining in the EUCU, the withdrawal agreement and remaining in the EUCU and ESM, a standard FTA, and a no-deal Brexit (Henden 2019). A petition for the revocation of Article 50 of the TEU signed by more than 6 million British citizens and UK residents “had the highest rate of signatures on record - and at one point, it caused the official petitions website to crash” (Burgess 2019).

Raab (2019) said that “must take its responsibility for the consequences of its political intransigence”, and Bogdanor (2019) stated that “Europe has proved toxic for the Conservatives, ruining six of their last seven Prime Ministers”. However, Michel Barnier said that “no one is trying to steal Brexit from you, no one is trying to undo the vote of the British people”. The Sun (2019a) claimed that Britain not leaving the EU on 29th March 2019 was “the result of a collective failure of our MPs”; and independent MP and former Labour Party MP, Frank Field (2019), criticised the British parliament for “too little compromise and too much ideological posing dressed up as promotion of what the public wants”. The Express (2019) stated that “ego-driven politicians in different parties have sought to advance their own careers and indulged in obnoxious grandstanding and putrid plotting that has done nothing to protect the livelihoods of families throughout the UK”.

Donald Tusk said that “you cannot betray the 6 million people who signed the petition to revoke article 50, the 1 million people who marched for a people’s vote, or the increasing majority of people who want to remain in the European Union” (Boffey 2019b).

In response to the British Brexit Party MP and Member of the European Parliament (MEP) and the former Leader of the United Kingdom Independence Party (UKIP), Nigel Farage, calling Donald Tusk “deluded” and saying that the result of a second referendum would be more support for Britain leaving the EU, Donald Tusk said that “the truth is that the second referendum took place in 2016 because the first one took place in 1975. And then a vast majority of the British public decided that the place of the UK was in the European Economic Community. No, it was you who thought three years ago that it was possible to organise a referendum to invalidate the previous one” (Boffey 2019b). A French candidate in the EP elections, Nathalie Loiseau said that a second referendum would be a “denial of democracy” that, according to Gutteridge (2019), would enable Britain to “infect” the EU; and the President of France, Emmanuel Macron, opposed a longer extension to Article 50 of the TEU.

On 23rd March 2019, some pro-EU media outlets claimed that 1 million people attended a march in London in support of the People’s Vote campaign (Tamma 2019), although Full Fact (Panjwani 2019), Britain’s independent factchecking charity, estimated that between 300,000 and 400,000 attended. Theresa May wrote to MPs stating that if there is insufficient support for the third meaningful vote or it would be defeated again, it would be possible to request another extension to Article 50 of the TEU before 12th April 2019 (Burgess 2019). Steerpike (2019) suggested that Theresa May could agree an extension with the EU without consulting the British parliament.

Theresa May ruled out a second referendum (Tamma 2019) and presented four Brexit options, which were the revocation Article 50 that would “betray the result of the referendum”; a no-deal Brexit, which has already been rejected by MPs; the defeat of the withdrawal agreement and a request for another an extension to Article 50 of the TEU, or the approval of the withdrawal agreement and formally withdrawing from the EU on 22nd May 2019 (Burgess 2019). Conservative Party MP and Chair of the Treasury Select Committee, Nicky Morgan (2019), suggested that the approval of the withdrawal agreement would enable Britain to focus on the future relationship phase of the Brexit negotiations and a Conservative Party leadership contest, which Britain could organise

whilst the EU would focus on the EP elections from 23rd to 26th May 2019 and the appointment of a new European Commission on 31st October 2019 (European Commission 2019b).

It was reported that plans regarding the border between Northern Ireland and the Republic of Ireland were being urgently discussed between the European Commission and the Irish government (Leahy, Smyth, Staunton and Kelly 2019). Leo Varadkar announced that although he believed that the withdrawal agreement would be approved, the European Commission and the Irish government had already established “supports that will be in place for farmers, the fishing industry and under-pressure businesses in the event of a no-deal Brexit”, and that the Irish government would more than match any funding from the EU through loans (F. Kelly 2019). He said that “I am not sure what people think happens at European Council meetings, but we don’t go there for two days to have dinner. We have robust engagements. People exchange views. Hard questions are asked, hard questions are answered and then we come to a consensus position and then we all stand by that position. That is how European unity works” (F. Kelly 2019).

The EU expressed “little optimism” that Britain would leave the EU with the withdrawal agreement, and preparations for a no-deal Brexit were being accelerated in member states with close links to Britain (Leahy, Smyth, Staunton and Kelly 2019). Simon Coveney stated the need for regulatory alignment between Northern Ireland and the Republic of Ireland in order to maintain the open border; and Leo Varadkar denied suggestions that an EU task force could be established to manage the border in the event of a no-deal Brexit (Leahy, Smyth, Staunton and Kelly 2019). Leo Varadkar said that the Republic of Ireland would “uphold the Good Friday Agreement, keep the border with Northern Ireland open and still fulfil our obligations in European treaties to protect the single market and make sure Ireland is still fully a member of the single market and that the Border doesn’t become a backdoor to the single market” (Leahy, Smyth, Staunton and Kelly 2019).

Leo Varadkar suggested a special arrangement between Britain, the EU, and the Republic of Ireland to maintain the invisible border in the event of a no-deal Brexit, claiming that “the UK [sic] government has already indicated that in the event of no-deal, [sic] the first thing they will do is treat Northern Ireland differently in terms of customs” and that “there is a real understanding of the unique situation we face in Ireland” (Flanagan 2019a). He said that Brexit “doesn’t have to define” the Republic of Ireland, which had “rough and preliminary” plans to avoid a hard border with Northern Ireland in the event of a no-deal Brexit (BBC News 2019a). He stated that although

“nobody knows” how the border would operate in the event of a no-deal Brexit, “there will be consequences to it, [sic] but it is not going to be a hard Border, it is not going to be physical infrastructure checks” (F. Kelly 2019).

On 24th March 2019, Stephen Barclay said that if the British parliament voted for a “softer” Brexit by rejecting both the withdrawal agreement and a no-deal Brexit, this could “potentially collide with fundamental commitments the Government has given in their manifesto” and increase the possibility of a general election (Mikhailova 2019). However, Labour Party MP and Shadow Secretary of State of Exiting the European Union, Keir Starmer, said that the Labour Party’s position was that “any deal should be subject to a confirmatory referendum” and that if there would be no snap general election, there could be a public vote on Brexit (Elgot 2019a). According to Elgot (2019a), “supporters of the People’s Vote campaign may withhold their backing for a softer Brexit option, however, in the hope of forcing a second poll with the option to remain”. Keir Starmer also said that the Labour Party was trying “to find a way of bringing all the sides together in our country, rather than dividing it in the way that the government has, on a Brexit, but a Brexit that works for everybody” (Elgot 2019a).

Hilary Benn criticised Theresa May’s lack of flexibility and “unwillingness to tell the British people the truth about the real choices we face” (Elgot 2019a), and said that “the truth about the last three years is that the fantasies presented by Leave campaigners have collided with reality” (Duffy 2019). He also suggested that the British parliament would need to consider the revocation of Article 50 of the TEU if a further extension couldn’t be negotiated, which he thought would be likely, and a no-deal Brexit was the only alternative (Duffy 2019).

It was suggested that the withdrawal agreement could gain support in return for Theresa May’s assurance that she would resign as Leader of the Conservative Party and Prime Minister (Hartley-Brewer 2019) at a summit at Chequers (Sabbagh 2019); although some claimed that this would further undermine her authority and lose support for the withdrawal agreement, which could lead to another defeat of the withdrawal agreement and a softer Brexit (Swinford 2019b). Nevertheless, Arlene Foster said that the DUP still couldn’t support the withdrawal agreement because it presented “a threat to the integrity” of Britain, and that “the union will always come first and that has been the issue right from the beginning of all of this” (Newton Dunn 2019b). The DUP also rejected suggestions that its MPs could abstain in the third meaningful vote, and Nigel Dodds said

that “we don’t abstain on the future of the Union” (Newton Dunn 2019b). Newton Dunn (2019b) claimed that the DUP’s opposition would lead to Theresa May’s reliance on Eurosceptic Conservative Party MPs and Labour Party MPs for their unlikely support for the withdrawal agreement.

On 25th March 2019, Iain Duncan Smith, responded to speculation that senior ministers favoured Conservative Party MP and “de-facto” Deputy Prime Minister, David Lidington, over Theresa May (Merrick 2019). He said that “the idea of a cabal, a cabal that never wanted to leave the European Union, turning out to decide what should happen over our future would be unacceptable to my colleagues” (Merrick 2019), although Theresa May herself voted to remain in the EU in the referendum and David Lidington voted to leave. Philip Hammond suggested that a second referendum “deserves to be considered” (Elliott 2019b).

Theresa May said that Article 50 of the TEU was extended partly because the NIA was suspended (Wilcock, Robinson and Sculthorpe 2019) and the Northern Ireland Civil Service (NICS) would be limited in its decision-making in the event of a no-deal Brexit, and suggested that the return of British direct rule in Northern Ireland would be necessary (L. Hughes 2019; Hawkes 2019b) through “some direct application of powers” (Syal 2019a). The General Secretary of the First Division Association (FDA) trade union for civil servants and public service professionals, Dave Penman, said that “A no-deal Brexit will require decision-making of such magnitude that only an elected politician should be responsible”, and that “civil servants, who have been left without political direction for more than two years now, could not and should not be expected to take decisions with such profound economic and security implications” (Syal 2019a). There were concerns about how Sinn Féin and the SDLP would react if the return of British direct rule in Northern Ireland was officially announced, to which Michelle O’Neill said there would be “grave consequences” (Syal 2019a).

Nigel Dodds said that the NICS being limited in its decision-making in the event of a no-deal was an “entirely new argument we are hearing for the first time why we need an extension”, and said that it was “a fundamental lack of preparation and the government is entirely responsible for that” (Hawkes 2019b). Sammy Wilson said that the DUP wouldn’t be used in “scare tactics” to gain support for the withdrawal agreement and asked Theresa May “when are you going to stop using Northern Ireland as an excuse?” (L. Hughes 2019; Wilcock, Robinson and Sculthorpe 2019).

Although the EU had repeatedly said that the backstop solution couldn't be renegotiated, the DUP argued that it wasn't necessary because of assurances from the Irish government that there would be "no checks along the Irish border, therefore no threat to peace in Northern Ireland" (L. Hughes 2019). However, Theresa May said that assurances about the border from the Republic of Ireland "have been contradicted in turn by the European Commission in terms of what might be necessary" (RTÉ 2019a).

Leo Varadkar said that "I'm still confident and I still think it's likely we will have a deal, however, as every day passes, no-deal does become more likely" and "so we're intensifying our no-deal preparations. They have been very much under way now for months, if not years" (The Irish News 2019). The EU said that "the controls will have to be done where they belong but that doesn't mean we would want to see visible infrastructure at the border", that they were "working very closely with the Irish authorities to try and perform controls away from the border if at all possible" in the event of a no-deal Brexit, and that they expected Britain to "live up to its commitments to avoiding a hard border" according to its obligations under the GFA whilst protecting the Republic of Ireland's membership of the ESM (The Irish News 2019).

Michel Barnier said that preventing the return of a hard border between Northern Ireland and the Republic of Ireland under the GFA would continue to apply in all Brexit scenarios, and he stated that "the Commission is ready to make additional resources available to Ireland, technical and financial to address any additional challenges" (Roth and Blenkinsop 2019). Some questioned why the backstop solution and the border between Northern Ireland and the Republic of Ireland had had such a significant role in the Brexit negotiations if such arrangements were being considered in the event of a no-deal Brexit, although others claimed that the EU was prioritising the protection of the Republic of Ireland as one of its member states. Michel Barnier said that even in the event of a no-deal Brexit, the backstop solution would be fundamental to EU policy to avoid a hard border between Northern Ireland and the Republic of Ireland (Boffey 2019b).

5.3.8 The indicative votes

On 25th March 2019, an amendable motion was put forward under section 13(6)(a) of the European Union (Withdrawal) Act 2018 concerning the statement made by Theresa May on 15th March 2019 (Www.parliament.uk 2019c) under section 13(4) of the European Union (Withdrawal) Act 2018 following the defeat of the withdrawal agreement in the second meaningful vote on 12th March 2019 (House of Commons Hansard 2019a; Legislation.gov.uk 2018; Heffer and McGuinness 2019).

An amendment to take control of the parliamentary schedule on 27th March 2019 to hold a series of non-binding indicative votes on a range of Brexit options; also known as the Letwin amendment because it was in the name of Conservative Party MP, Oliver Letwin; was approved by 329 to 302 votes; and the amended motion was passed by 327 to 300 votes (Www.parliament.uk 2019b). Instead of voting in the division lobbies “by physically going into one of two rooms on either side of the Commons Chamber” (Www.parliament.uk 2011, p.1), MPs were each to be given a paper listing the range of Brexit options selected by John Bercow, on which they would have half an hour to mark whether they were in favour or against each option (Stevens 2019).

Parliamentary Under-Secretary of State for Public Health and Primary Care, Steve Brine; Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Alistair Burt; and Parliamentary Under-Secretary of State for Business and Industry, Richard Harrington all resigned in order to support the Letwin amendment against the instructions of Theresa May (Clark 2019b). In his resignation letter, Richard Harrington said that he regretted that “the government’s approach to Brexit is playing roulette with the lives and livelihoods of the vast majority of people in this country” that is “resulting in cancelled investment decisions, business being placed abroad, and a sense of ridicule for British business, across the world”, and referred to a no-deal Brexit as “part of a giant economic experiment that is championed by a small minority” (Harrington 2019).

According to Wilcock, Robinson and Sculthorpe (2019), Theresa May was willing to offer MPs a final vote in order to prevent MPs taking control of the parliamentary schedule, which could lead to a softer Brexit or a second referendum; but stated that MPs taking control of the parliamentary schedule would “overturn the balance of our democratic institutions” (Coates, Elliott, Wright and Zeffman 2019). The British government said that it would set a “dangerous, unpredictable precedent” (Stevens 2019). Johnston (2019) denigrated those who supported Britain remaining in the EU in an article entitled “the Brexit-hating minority is determined to impose its views on the rest of us” published in The Telegraph.

However, Dathan (2019b) reported that David Cameron supported the concept of holding indicative votes. Publicly, David Cameron said that Theresa May’s “job is hard enough already without her immediate predecessor giving her running commentary so she has my support and I wish her well”, although MPs said that after meeting him privately, he was “heavily critical of Mrs May’s refusal to seek a cross-party consensus to get a deal through” and supported a softer Brexit through a customs

union with the EU (Dathan 2019b). He had reportedly also told one minister that “Theresa will always put the party’s interest first and will go with the party until the end”, and the minister claimed that David Cameron thinks that Theresa May is “set in the course of never changing direction” (Dathan 2019b).

Guy Verhofstadt said that “until now, all the Commons votes have been against something. This is the first time that there is a vote for something – cross-party cooperation. We have long called for that. It is possible now to work for cross-party proposals and an alliance that could change the political declaration fundamentally. It is very important that this cross-party cooperation will start, [sic] and I hope it leads to proposals that can be backed by a majority” (Boffey 2019c). However, The Times took the opportunity to denigrate the EU by publishing an article entitled “Brexit: EU leaders heap praise on MPs for ‘real revolt’” (Waterfield 2019a).

Some of Theresa May’s loyalists suggested that she should suspend all Conservative Party MPs who didn’t support the withdrawal agreement, which Newton Dunn (2019c) claimed would disqualify them from standing as candidates in any following general election, and which one senior minister said “would be strong leadership, and it’s what Maggie or Tony Blair would have done”. “According to Newton Dunn (2019c), this reinforced division within the Conservative Party between those who supported the withdrawal agreement and those who opposed it, those who were in favour of a softer Brexit and those who were in favour of a harder Brexit, and those who were pro-EU and those who were pro-Brexit; and the senior minister said that “we’re going to have a final reckoning during the next leadership contest, and the losers will go because our differences are now irreconcilable”.

Although the indicative votes were non-binding, it was reported that some MPs, or “Brexit rebels” according to The Daily Mail, planned to take control of the parliamentary schedule on 1st April 2019 to narrow down the range of Brexit options or propose legislation to ensure that they were legally-binding (Stevens 2019). It was also reported that around 20 junior ministers who supported Britain remaining in the EU claimed that they would resign if they weren’t given free votes on a range of Brexit options in the indicative votes (Swinford 2019a). Conservative Party MP and Minister of State for Asia and the Pacific, Mark Field, said that he would support the revocation of Article 50 of the TEU if Conservative Party MPs were given a free vote in the indicative votes,

although accepted that “it probably would not be a majority view in the House of Commons”, and a potential free vote hadn’t yet been announced by Philip Hammond (Foster 2019).

However, in its response to the petition for the revocation of Article 50 of the TEU signed by more than 6 million British citizens and UK residents, the government stated that “this Government will not revoke Article 50. We will honour the result of the 2016 referendum and work with Parliament to deliver a deal that ensures we leave the European Union”; that “this Government wrote to every household prior to the referendum, promising that the outcome of the referendum would be implemented. 17.4 million people then voted to leave the European Union, providing the biggest democratic mandate for any course of action ever directed at UK Government”; and that “British people cast their votes once again in the 2017 General Election where over 80% of those who voted, voted for parties, including the Opposition, who committed in their manifestos to upholding the result of the referendum” (Petitions - UK Government and Parliament 2019). However, many politicians changed their stance from pro-EU to pro-Brexit in order to gain public support. Nevertheless, a parliamentary debate about the petition was scheduled for 1st April 2019 (Petitions - UK Government and Parliament 2019).

On 26th March 2019, according to McTague and Cooper (2019), Theresa May and Stephen Barclay “have indicated the government would not accept anything that contradicts the Conservative Party manifesto, raising the prospect that unless MPs agree to the prime minister’s deal there will be a long delay and possibly a general election”. It was suggested that if MPs were to approve a longer extension of Article 50 of the TEU and/or a softer Brexit, this could lead to a general election (Elliott, Zeffman, and Devlin 2019; McGrath 2019). According to McGrath (2019), with the support of other ministers, Stephen Barclay said that “a third election in four years would be the logical conclusion of the Government losing control over the country’s departure from the European Union”. One senior cabinet minister claimed that MPs didn’t understand the fundamental aspects of the Brexit negotiations, for example, that there wouldn’t be a transition period without a withdrawal agreement (McTague and Cooper 2019). Martin Howe (Lawyers for Britain 2019) said that “I think that politicians have a duty to base their decisions on vital national matters on a fuller and more careful review of the available legal advice”.

Despite the indicative votes, Lilico (2019c) claimed that a no-deal Brexit or no Brexit were the only two remaining Brexit options. Conservative Party MP and Chair of the ERG, Jacob Rees-Mogg,

claimed that the withdrawal agreement or no Brexit were the only two remaining Brexit options, and that “the Prime Minister will not deliver a no-deal Brexit” (Gye, Ferguson and Hall 2019). With the support of other Conservative Party MPs (Gye, Ferguson and Hall 2019; Sculthorpe 2019), he also said that “I’ve always thought that no deal is better than Mrs May’s deal, but Mrs May’s deal is better than not leaving at all. And so, [sic] there is a sort of hierarchy of choice” (Walker and Stewart 2019a). He said that although he would “be accused of infirmity of purpose by some and treachery by others” (Groves and Robinson 2019), “I have come to this view because the numbers in Parliament make it clear that all the other potential outcomes are worse, [sic] and an awkward reality needs to be faced” (Gye, Ferguson and Hall 2019; Groves and Robinson 2019). He also said that he would support the withdrawal agreement if the DUP did too (Wilcock, Robinson and Sculthorpe 2019).

Walker and Stewart (2019a) claimed that Jacob Rees-Mogg’s support increased the possibility of gaining support for the withdrawal agreement in the third meaningful vote, although the DUP and some members of the ERG reiterated that they wouldn’t support the withdrawal agreement, with a DUP spokesman saying that the party’s “position remains unchanged” (Wilcock, Robinson and Sculthorpe 2019). One Conservative Party MP said that the ERG planned to “vote against the so-called amendments” and that “as long as the government’s motion on its next steps is not amended, the ERG will vote for it” (Wilcock, Robinson and Sculthorpe 2019).

Pro-EU Conservative Party MP, Antoinette Sandbach, suggested that the millions who signed the petition for the revocation of Article 50 of the TEU could join the Conservative Party and vote for a Leader who supported Britain remaining in the EU, which was subsequently condemned by Arron Banks as “entryism”, which is joining a political party with the intention of changing it (Foster 2019). Conservative Party MP, Michael Fabricant, said that “a new PM can then negotiate a better and more distanced relationship with the EU after Brexit” (Cowburn 2019). Some of those who supported Britain leaving the EU favoured a longer extension to Article 50 of the TEU over the withdrawal agreement in order to use the time to attempt to replace Theresa May with a more pro-Brexit Prime Minister; hold a general election in order to attempt to renegotiate the withdrawal agreement; and leave without a withdrawal agreement if the renegotiations were unsuccessful (McTague and Cooper 2019).

Conservative Party MP, Christopher Chope, suggested that Conservative Party MPs could support a motion of no confidence in Theresa May if it were put forward by the Labour Party (McGrath 2019). According to McGrath (2019), one cabinet minister said that “if we lose control of the process then we are heading for an election. We’ll either lose a confidence vote – in which case you could even get Corbyn without an election – or we will be forced to go for an election ourselves”. Some Conservative Party MPs who supported Britain leaving the EU claimed that if the government pursued a softer Brexit, they would join the Labour Party and defeat the government in a motion of no confidence in the government of Theresa May (Walters 2019).

According to Allegretti (2019; Whitfield 2018a), another motion of no confidence in Theresa May could be held through the House of Commons, in which every MP would be eligible to vote. However, in this case, Conservative Party MPs who supported the motion of no confidence in Theresa May could lose the whip (Allegretti 2019), meaning that the Conservative Party would reject them, and they would therefore no longer need to adhere to the whip’s instructions. They would subsequently most likely lose their seat in a general election (Allegretti 2019), and if they wanted to stand for re-election, they would be obliged to do so as an independent candidate who doesn’t represent a political party.

Walters (2019) reported that it would unlikely that Jeremy Corbyn would become Prime Minister through an approved motion of no confidence in the government of Theresa May. An approved motion of no confidence in the government of Theresa May wouldn’t necessarily lead to a general election because there is a 14-day period after the day on which the motion is approved that enables others to attempt to form a government that can gain the support of a majority in the House of Commons under section 2(3)(b) the 2011 Fixed-term Parliaments Act (Legislation.gov.uk 2011; Elliott, Zeffman, and Devlin 2019; Whitfield 2018b), which Elliott, Zeffman, and Devlin (2019) suggested could lead to Jeremy Corbyn becoming Prime Minister without a general election. Alternatively, some “rebel” Conservative Party MPs developed a plan in the event of the withdrawal agreement being rejected in the third meaningful vote that would establish a national unity government, namely a coalition in which multiple political parties cooperate, with the Labour Party that would ensure a softer Brexit and negotiate options to avoid the revocation of Article 50 of the TEU (Walters 2019). This was also intended to prevent some Conservative Party MPs’ “nightmare” of Jeremy Corbyn becoming Prime Minister after a general election (Walters 2019).

Nicky Morgan said that “the public wants us to sort it out, not to call another general election. If Parliament unites behind a “Plan B” and the Prime Minister is unable or unwilling to deliver it, [sic] we have to find a solution. We have to work with sensible figures in Labour and other mainstream parties. There is a strong case for a government of national unity representing opinion on all sides of the Commons. It worked in the Depression in the 1930s and could work now” (Walters 2019). According to Walters (2019), “the first government of national unity was formed during the Napoleonic Wars in 1806 with another coming in 1931. Winston Churchill led a Second World War all-party coalition”.

It was reported that an opinion poll conducted by ComRes (2019a, as cited in Hymas 2019 and Edginton 2019) found that 20% of respondents agreed that “If MPs in Parliament attempt to stop Brexit I will never vote again”, 52% of respondents agreed that “Petitions calling for us to remain in the EU are irrelevant compared to the official result of the referendum in 2016” (ComRes 2019a, p.108), 55% of respondents agreed that “Parliament seems determined not to implement the will of the electorate on Brexit”, 52% of respondents agreed that “Theresa May’s deal does not deliver the type of Brexit that those who voted to leave in 2016 wanted”, and 48% of respondents agreed that “if Brexit is thwarted by Remain-supporting MPs and other Establishment figures, it will harm the UK” (ComRes 2019a, p.39).

Hymas (2019) changed the wording of one of the aforementioned statements from 55% of respondents agreed that “Parliament seems determined not to implement the will of the electorate on Brexit” (ComRes 2019a, p.39) to “some 55 per cent believe Parliament is determined to thwart Brexit” (Hymas 2019) in his article about this opinion poll entitled “Most voters believe Parliament is trying to block Brexit, poll reveals” (Hymas 2019) that was published in The Telegraph, and therefore it’s possible that readers could misinterpret the meaning of the opinion poll’s results. Moreover, The Sun (Clark and Gye 2019) denigrated those who supported Britain remaining in the EU as “die-hard EU lovers” and claimed that “most Brits” consider the petition for the revocation of Article 50 of the TEU signed by more than 6 million British citizens and UK residents to be “irrelevant” in reference to the 52% of respondents who agreed that “Petitions calling for us to remain in the EU are irrelevant compared to the official result of the referendum in 2016” (ComRes 2019a, p.108) in an article entitled “Remainers’ petition to cancel Brexit is totally irrelevant and MPs should just get on with leaving, most Brits insist” (Clark and Gye 2019).

Although the opinion poll claimed that “data were weighted to be demographically representative of all GB adults by age, gender, region and social grade” (ComRes 2019a, p.1), the client of the opinion poll was listed as Leave Means Leave, a pro-Brexit organisation (ComRes 2019b). The online media outlets that ComRes’ (2019a) published voting intention analysed were The Mirror, The Express, and The Telegraph, which according to Media Bias/Fact Check (2019a), are publishers of mixed factual news; and the former is rated as having strong left-wing bias and the latter two are rated as having strong right-wing bias. The opinion poll also analysed Leave Means Leave and Brexit Express, another pro-Brexit organisation. Therefore, as the opinion poll analysed online media outlets that are primarily rated as having strong right-wing bias (ComRes 2019a), it was likely that the data wasn’t demographically representative. Moreover, the statements that the respondents were asked to agree or disagree with appeared to be written in a biased way. This suggests that polls and surveys that are conducted in cooperation with media outlets or organisations that are clearly biased in favour of or against certain topics or events may be unreliable.

On 27th March 2019, no amendments on the motion concerning the structure of the indicative votes were selected by John Bercow to be voted on, including an amendment to prevent MPs from taking control of the parliamentary schedule on 1st April 2019; and the motion was approved by 331 to 287 votes (Www.parliament.uk 2019a). In the indicative votes, 16 motions were submitted, each for a different Brexit option, and eight were selected by John Bercow to be voted on (Www.parliament.uk 2019a). No Brexit option gained the support of the majority, including neither Britain remaining in the EUCU and/or the ESM, nor a confirmatory public vote on any outcome (Wright and Zeffman 2019; Www.parliament.uk 2019a). According to Warner (2019), “MPs simultaneously managed to vote both for Brexit and against virtually every conceivable form of Brexit available”.

Britain remaining in the EUCU was the closest Brexit option as it was defeated by only 6 votes (“after publication, the Speaker of the House corrected the count that had been initially declared for the vote on the customs union” (Walker 2019a)), and a confirmatory public vote was the second closest Brexit option as it was defeated by only 27 votes (Wright and Zeffman 2019; Www.parliament.uk 2019a; Warner 2019); the latter of which was, according to Boffey (2019b), “the second smallest loss among the eight solutions to the Brexit impasse, offering some hope to campaigners in future votes to come”. According to Walker (2019), the second referendum Brexit

option plan had the highest number of positive votes. Elliott (2019a) stated that “proposals for a second referendum and a customs union both polled more than the prime minister’s deal”. The common market 2.0 had the biggest loss of all the Brexit options (Www.parliament.uk 2019a), although Walker (2019a) claimed that this didn’t rule out that option because Conservative Party MPs were waiting for the outcome of the withdrawal agreement, and “the DUP abstained – membership of EFTA and the EEA would remove any issues about the Irish border”.

Conservative Party MPs were allowed a free vote and cabinet ministers were instructed to abstain (Wright and Zeffman 2019). Labour Party MP and Shadow Minister for Housing, Melanie Onn, resigned in protest of instructions for Labour Party MPs to vote in favour of a confirmatory public vote (Stewart and Elgot 2019). Labour Party MP, Kate Hoey (2019) said that instructions for Labour Party MPs to vote in favour of a confirmatory public vote “have been wearing down my party’s commitment to honour the referendum”; which she claimed was a disappointment for those who voted for the Labour Party in Britain’s 2017 snap general election, “helping to hand Jeremy Corbyn Labour’s biggest increase in vote share since 1945”.

Whilst Bush (2019a) claimed that “most MPs don’t like to rebel”, 27 Labour Party MPs voted against the second referendum because “backing a replay of the 2016 vote is a one-way ticket to the political graveyard for them personally and the Labour party in general”, although many Labour Party MPs voted in favour of a confirmatory public vote because they didn’t want to be disloyal or aggravate Labour Party activists. However, Walker (2019a) stated that the confirmatory public vote Brexit option (Www.parliament.uk 2019a), also known as the second referendum Brexit option, was “subtly different to the calls for a so-called people’s vote – seen by some as a back door to frustrate Brexit – in that it seeks to enshrine the idea of a confirmatory referendum for whatever deal emerges. And the longer the confusion goes on as to what will happen, the more its appeal could grow”. Therefore, many online media outlets referring to it as a second referendum may have been misleading.

Labour Party MP and Shadow Minister for the Cabinet Office, Jon Trickett; Labour Party MP and Shadow Minister without Portfolio, who isn’t responsible for a specific department, Ian Lavery; and Labour Party MP and Shadow Secretary of State for Communities and Local Government Andrew Gwynne, abstained from voting on a second referendum (Stewart and Elgot 2019). According to Stewart and Elgot (2019), the shadow cabinet ministers were “wary of supporting a measure that

appeared to be aimed at overturning Brexit” that Jeremy Corbyn said the Labour Party should support ““even where it can be read as going beyond our policy”, to “keep the option of a public vote on the table in order to stop a disastrous no-deal [sic] or May’s unacceptable deal””. Barry Gardiner suggested that the Labour Party voting in favour of a second referendum could imply that the Labour Party would support the withdrawal agreement if it led to a second referendum (Stewart and Elgot 2019).

Barry Gardiner (Stewart and Elgot 2019) said:

It would be saying we could accept what we have always said is a very bad deal. Therefore, [sic] it looks as if the attempt to have a public vote on it is simply a way of trying to remain because nobody likes this deal. To put that up as the only alternative in a public vote and say we will let it go through looks as though you believe that, at the end of it, remain would be the result. It is not where our policy has been. Our policy is clearly that we would support a public vote to stop no-deal [sic] or to stop a bad deal, but not that we would allow a bad deal as long as the public had the opportunity to reject Brexit altogether.

Barry Gardiner also said that the Labour Party had “accepted the result of the referendum” and claimed that the Labour Party shouldn’t be portrayed as supporting Britain remaining in the EU (Stewart and Elgot 2019).

A draft SI was passed by both the House of Commons, by 441 to 105 votes, and the House of Lords; which was required under paragraph 14 of Schedule 7 of the European Union (Withdrawal) Act in order to alter the date when Britain was expected to formally withdraw from the EU according to section 20(1) of the European Union (Withdrawal) Act (Miller 2019; Legislation.gov.uk 2018). All DUP MPs voted against the SI (Miller 2019). A Labour Party member of the House of Lords, Baroness Hayter, presented a motion to regret at the end of the motion to approve (Miller 2019), which can’t amend or stop an SI, but enables members to put their opposition on the record (Www.parliament.uk 2019k).

The motion to regret, which Baroness Hayter withdrew, said that “this House, whilst recognising the necessity of the Regulations, regrets the manner in which Her Majesty’s Government have conducted withdrawal negotiations with the European Union which has resulted in widespread uncertainty as to when the United Kingdom will leave and about the status of European Union citizens, as well as undermining business confidence” (Miller 2019). A commencement order, a form of SI “designed to bring into force the whole or part of an Act of Parliament which for some

reason it is not desired to put into effect immediately” (House of Commons Information Office 2008, p.10), was required before Britain formally withdraws from the EU (Miller 2019).

5.3.9 The vote on the withdrawal agreement without the political declaration

On 27th March 2019, John Bercow reiterated that he wouldn’t accept a third meaningful vote on the same withdrawal agreement (Parker and Pickard 2019) and said that he wouldn’t accept a paving motion “where MPs vote to say they want a third vote, before the vote” in response to claims that there would be a third meaningful vote on 28th March 2019 or 29th March 2019 (Newton Dunn 2019a). Parker and Pickard (2019) reported that Theresa May was considering putting forward the withdrawal agreement without the political declaration for the third meaningful vote. According to the political declaration, Britain and the EU would “develop an ambitious, wide-ranging and balanced economic partnership” (European Council 2018b, p.7, as cited in Parker and Pickard 2019), although Britain would be outside the ESM and EUCU (Parker and Pickard 2019).

According to Parker and Pickard (2019), “a senior Labour spokesman said the changes Labour was seeking were all to the political declaration rather than the withdrawal agreement. But that did not mean that it would wave through the exit treaty”. The Labour Party’s concerns about the withdrawal agreement were the backstop solution and uncertainty about what would follow the approval of the withdrawal agreement (Parker and Pickard 2019). Therefore, any Labour Party MPs were more concerned with the political declaration, although the DUP and Eurosceptic Conservative Party MPs were more concerned with the withdrawal agreement (Parker and Pickard 2019). According to Devlin and Webber (2019), both the Labour Party and the DUP would be under pressure “since both would be forced to oppose the divorce deal and could then be blamed for forcing either a no-deal exit or a lengthy delay of a year or more”.

Parker and Pickard (2019) suggested that Theresa May “could tell opposition parties that if they first approved the terms of Britain’s EU divorce, that she would take MPs’ views into account in setting the priorities for a future partnership”. According to Boffey (2019a), Michel Barnier said that the political declaration could be amended to reflect the closest Brexit options in the indicative votes. Parker and Pickard suggested that the indicative votes “could be used as the mechanism to shape the country’s future negotiating priorities. The prospect of the largely pro-EU Commons taking a greater role in the process could give more incentive to Tory Eurosceptics and the DUP to endorse Mrs May’s entire package deal — including the political declaration — rather than allowing MPs to dictate Brexit’s future course”.

Boffey (2019a) claimed that section 13 of Britain's domestic European Union (Withdrawal) Act (Legislation.gov.uk 2018) required the political declaration to be passed in order for the withdrawal agreement to be ratified, although Parker and Pickard (2019) reported that some ministers suggested changing the law to avoid this. On 29th March 2019, Raab (2019) stated that "the motion today explicitly does not satisfy section 13(1)(b) of the EU Withdrawal Act so this is not, in practice or in law, the third Meaningful Vote". Devlin and Webber (2019; Parker and Pickard 2019; Raab 2019) stated that only the approval of the withdrawal agreement was required to adhere to the EU's conditions for the short extension of Article 50 of the TEU, and that Britain would have time to arrange the political declaration required to formally ratify the withdrawal agreement before 22nd May 2019, which was when Britain was expected to formally withdraw from the EU if the withdrawal agreement would be approved and ratified by the House of Commons by 29th March 2019.

In reference to the meaningful votes compared to the prospect of a second referendum, Hilary Benn said that "we're told that that is democratic, in an attempt to get us as MPs to change our minds. Can someone please explain to me why it is undemocratic to ask the British people whether, on reflection, they would like to change their mind? (Duffy 2019). David Cameron said that Theresa May "should feel free to look at other alternatives for partnership deals and the like in order to solve this problem because you can't go on with a situation with people who want Brexit keep voting against it" (Smith and Bloom 2019). Sammy Wilson (2019a) claimed that voting in favour of the withdrawal agreement or alternatives would mean no Brexit, and that MPs who supported Britain remaining in the EU are trying to take control and pressure MPs who supported Britain leaving the EU into support the withdrawal agreement. According to Sculthorpe (2019), "if the DUP refuse to endorse the deal at the 11th hour Mrs May's chances of winning 75 more votes at the third attempt than she managed on March 12 appear to be shrinking fast".

Sammy Wilson also said that a one-year extension of Article 50 of the TEU would be preferable to "volunteering to be locked into the prison of the withdrawal deal with the cell door key in the pocket of Michel Barnier" (Cowburn 2019), and it was reported that this subsequently resulted in some other DUP MPs distancing themselves from him (Sculthorpe 2019). According to Hawkes and Newton Dunn (2019), some Conservative Party MPs encouraged Arlene Foster and the DUP to support the withdrawal agreement in the third meaningful vote for "the national interest", as the

defeat of the withdrawal agreement in the third meaningful vote was “expected to open the door to Parliament imposing a ‘super-soft’ Brexit on the nation – or a second referendum”.

Nigel Dodds (Read 2019a) said:

I would stay in the European Union and remain rather than risk Northern Ireland’s position. That’s how strongly I feel about the Union. We want to see Brexit delivered, we believe the referendum result should be respected and delivered on, but it can’t be at the risk of separating Northern Ireland out from the rest of the United Kingdom. I think it would be actually better staying in the European Union than living under this Withdrawal Agreement, which would mean you would accept all the rules of the European Union, pay in all the money, but have no say whatsoever.

Nigel Dodds suggested that the British government should renegotiate the backstop solution with the EU because he claimed that as a result of the backstop solution, “Northern Ireland would sit in a separate legal position from the rest of the United Kingdom in economic and trade terms” (Read 2019a). He stated that the backstop solution “could have a long-term outcome whereby Northern Ireland would inevitably pull away from its biggest trading market in Great Britain as there would be new internal barriers within the United Kingdom” (Read 2019a). Flanagan (2019b) suggested that unionists should consider whether membership of Britain or membership of the EU would be most beneficial for Northern Ireland.

It was reported that the EU would offer Britain a longer extension of Article 50 of the TEU until 31st March 2020 if there were to be a new political process or event before 12th April 2019, such as a general election or second referendum (Boffey 2019c). One EU official said that “giving more than that time runs the risk of mischief by the UK. We have seen the talk of Brexiterers of trying to stay in and cause trouble. So, [sic] such a time limit is not a bad idea”, and that the extension “is not up to this October because we can’t do this all the time. We do need time to do other things. And that is one of the attractions of a long extension. We can put it to one side and do other things” (Boffey 2019c).

Keir Starmer suggested before Britain would request a longer extension of Article 50 of the TEU, a Brexit option should gain majority support, stating that “we need to know what the majority is, we need to agree a purpose and then we will know for how long we need an extension” (Dathan 2019a). However, some MPs claimed that the first extension of Article 50 of the TEU was “unlawful” because it was “incumbent on the Government to respect the normal practice of

allowing Parliament to approve any necessary legislative changes before entering into a binding international obligation” (McGrath 2019).

According to Lilico (2019b), “even if every pro-Brexit MP had switched to backing May’s deal at the second vote, it would still have been defeated by its pro-Remain opponents”; and he claimed that although some pro-Brexit MPs are considering supporting the withdrawal agreement due to the prospect of no Brexit, support for the withdrawal agreement was even more unlikely because 30 Conservative Party MPs voted in favour of the Letwin amendment. Moreover, Lilico (2019b) claims that the government was divided to the advantage of the Labour Party; although if the Labour Party would support no Brexit in the event of the withdrawal agreement being defeated for a third time, it would be likely to lose support and even empower those who support Britain leaving the EU. Nevertheless, according to The Sun (2019a), it was “increasingly clear that the Prime Minister will need Labour votes to ensure that Westminster honours the Referendum result”, or at least for Labour Party MPs to abstain (Parker and Pickard 2019).

Lilico (2019a) claimed that because the withdrawal agreement was defeated by 149 votes in the second meaningful vote, the approval of the withdrawal agreement in the third meaningful vote would require 75 Conservative Party MPs to vote in favour of the withdrawal agreement in the third meaningful vote, the same number that voted against the withdrawal agreement in the second meaningful vote. Therefore, Lilico (2019a) predicted that if those 75 Conservative Party MPs who voted against the withdrawal agreement in the second meaningful vote voted in favour of the withdrawal agreement, it would pass provided that other MPs voted in the same way as they did in the second meaningful vote. However, 6 of the 75 Conservative Party MPs reportedly supported Britain remaining in the EU, and therefore Lilico (2019a) assumed that they were unlikely to support the withdrawal agreement.

Lilico (2019a) concluded that the approval of the withdrawal agreement in the third meaningful vote would be unlikely, especially as it was possible that more MPs who supported Britain remaining in the EU would vote against the withdrawal agreement in the third meaningful vote because in the indicative votes, 4 Conservative Party MPs who hadn’t voted against the withdrawal agreement in the second meaningful vote voted in favour of the revocation of Article 50 of the TEU and some Conservative Party MPs abstained from voting on that Brexit option, whilst other Conservative Party MPs voted in favour of a second referendum. Nevertheless, The Sun (2019a)

stated that “a failure to get the deal across the line today could be the death knell of the Tory party as we know it and open the door to the most dangerous Government Britain has ever seen — and a soft Brexit or none at all. Unless they change course today, the ERG refuseniks will take their fair share of the blame when the history books are written”,

DUP MP, Jim Shannon, said that “the obvious thing for us is that nothing has changed”, and that the DUP would only support the withdrawal agreement if the backstop solution had a time limit, although the EU had repeatedly said that the backstop solution couldn’t be renegotiated (Walker and Stewart 2019a). He concluded that the ERG “maybe see Brexit as the greater issue, rather than the union. We see the union as the big issue, the priority” (Walker and Stewart 2019a) in reference to the unity between Britain’s regions of England, Wales, Scotland, and Northern Ireland. Jacob Rees-Mogg suggested that “we have to recognise that what we want and what we can deliver is not necessarily the same because of our lack of numbers” and that “the ERG and other Eurosceptics in parliament cannot win any vote on our own” (Walker and Stewart 2019a). He concluded that “perhaps the thought processes that people like me hadn’t gone through before is the thought that Brexit is a process rather than an event” (Walker and Stewart 2019a).

On 28th March 2019, it was reported that Theresa May would put forward a third vote on the withdrawal agreement without the political declaration “in the hope that the whole deal will be agreed at a later date” on 29th March 2019 “despite warnings from her closest aides and ministers that she is destined for yet another defeat”, and that Eurosceptic MPs suggested that she should present the schedule for her resignation regardless of whether the withdrawal agreement would be approved or defeated (Rayner and Maidment 2019) in reference to her agreement to resign within weeks of the withdrawal agreement’s ratification (Elliott 2019a). Conservative Party MP and Leader of the House of Commons, Andrea Leadsom, announced that MPs would consider a motion on withdrawal from the EU on 29th March 2019, but didn’t commit to the third meaningful vote (Devlin and Webber 2019).

Warner (2019) claimed that in the indicative votes, “the no-deal option failed by an overwhelming margin, so we can therefore be fairly certain that MPs won’t allow that”. However, it was reported that the EU was in “full crisis mode” as a result of no Brexit option gaining the support of the majority in the indicative votes, and the increasing likelihood of the rejection of the withdrawal agreement in the third meaningful vote on 29th March 2019 and a subsequent no-deal Brexit (Boffey

2019a). The EU expected Britain to indicate by 18th April 2019 that, despite the British parliament's rejection of the withdrawal agreement, it would pay the £39 billion pounds financial settlement in order to continue negotiations with the EU after or even before the EU's contingency measures would expire in order to avoid "an economic meltdown" in the event of a no-deal Brexit (Boffey 2019a). Northern Ireland at least partly remaining in the ESM and the EUCU in order to uphold the GFA was still the EU's solution for avoiding a hard border between Northern Ireland and the Republic of Ireland (Boffey 2019a).

According to Gutteridge (2019), the EU "will insist Britain pays the divorce bill and accepts the backstop even if there's no deal" and "will make the demands in return for rolling over contingency measures designed to prevent widespread disruption and economic damage"; and that the EU approving a longer extension to Article 50 of the TEU would be a political rather than legal decision. However, Hunt and Wheeler (2019) claim that "the UK could leave without any Brexit "divorce bill" deal but that would probably mean everyone ending up in court battles. If compromise can be achieved, and if payment of the bill were to be spread over many years, the amounts involved may not be that significant economically".

Knox (2019) claimed that "EU leaders are plotting to lock us in for as long as much as a year" and "Europhiles will be pleased with the idea of being trapped in the bloc for another year". Returning officers, officials that conduct elections and announce the results, were "being placed on standby" because preparations were being made for Britain to participate in the EP elections from 23rd to 26th May 2019, which could "further divide the country" (Knox 2019) as Britain "could have elected representatives in the European Parliament for another five years" (Clarke 2019a).

The Independent Group (TIG) is a British centre and pro-EU group founded on 18th February 2019. TIG consisted of 11 MPs, who Clark (2019a) referred to as "Remainer rebels", some of whom had left the Conservative Party and some of whom had left the Labour Party, the latter principally due to Leader of the Labour Party "Jeremy Corbyn's failure to tackle anti-Semitism or properly oppose Brexit" (Clark 2019a). It was reported that TIG had registered as 'Change UK - The Independent Group' with the intention of its members being able to stand as candidates if Britain were to participate in the EP elections from 23rd to 26th May 2019 (Schaart 2019b; Clark 2019a). Former Labour Party MP and spokesperson of TIG, Chuka Umunna, said that "a new party will shake up the two-party system and provide people with an alternative that can change our country for the

better. This is what Change UK will be aiming to do at any European elections if our application for registration is accepted in time”, although there was no guarantee that the registration could be completed before the deadline for MEP nominations on 24th April 2019 (Schaart 2019b).

Chuka Umunna also said that “there is clearly an appetite for an alternative to our broken politics which needs fundamental change, as shown by the disastrous Brexit process which has occurred under the watch of the two main parties” (Clark 2019a). According to Bale (2019), “Brexit threatens to blow the British party system apart. Inasmuch as voters ever identified with the programmes and the parties on offer, they may forget any loyalties and any preferences they once had. New contenders for their support may emerge, and indeed already have. Existing parties may split”. Guinness (2019) stated that “leaving aside bickering politicians, lawyers and economists, this subject has driven a wedge between neighbours, torn asunder families”.

Despite his concerns about the backstop solution, an indefinite customs union, and “being left in a weak negotiating position for our future relationship”; “for Brexit to happen at all”, Mark Harper (2019a) expressed his support for the withdrawal agreement and claimed that “there are many MPs who wish to frustrate the decision made by the British people in the EU referendum, and are prepared to stop at nothing to do so”. Despite having previously advocated a no-deal Brexit, member of the House of Lords and former Conservative Party MP and cabinet minister, Peter Lilley, encouraged MPs to support the withdrawal agreement because the withdrawal agreement was a “lesser evil” in comparison to no Brexit at all (Hawkes 2019a; Lilley 2019). He stated that the EU and the “Remainer” British parliament and government wouldn’t allow a no-deal Brexit, and said that “the choice MPs face is appalling. I believe that is deliberate” (Hawkes 2019a; Lilley 2019).

Peter Lilley also claimed that the backstop solution is “intrinsically temporary”, and that Britain “must choose between becoming a vassal state or remaining a province in a federalising Europe” (Hawkes 2019a; Lilley 2019). He said that as a result of approving the withdrawal agreement, “the very humiliation of our vassal status - being subject to EU laws, tariffs and trading policies without any say - will amplify pressures to extricate ourselves [sic] from this status. And the modest return of competences - over agriculture, immigration - will create demand for more” (Hawkes 2019a; Lilley 2019). According to Farage (2019), those who supported Britain leaving the EU were “more resolute now than they were 33 months ago”.

Peter Lilley concluded that “under a new leader it gives us scope to reassert our independence - as many a vassal state has done in the past” (Hawkes 2019a; Lilley 2019). The Express (2019) stated that “the passing of the Withdrawal Agreement will give her successor the time and stability he or she will need to negotiate a long-term relationship with the EU”. However, Owen Paterson (2019a) claimed that:

No future Prime Minister could start his or her tenure by tearing up a legally-binding international treaty. What is shocking is how many Conservatives – including Government Ministers – voted to revoke Article 50. Having voted to trigger it and having stood on a Manifesto promising to deliver Brexit, they are now openly contemptuous of the 17.4 million people who voted to Leave and all those voters who put them in office.

Iain Duncan Smith (2019) expressed his support for the withdrawal agreement because he didn’t believe that a no-deal Brexit was likely, and he claimed that if the British parliament didn’t approve it:

Brussels will have Britain over a barrel. Westminster would be obliged to come up with an alternative exit proposal by April 12. If that happens, I am convinced that the overwhelmingly Remainer majority in the Commons would try to force through a much softer Brexit, and possibly no Brexit at all. Not only that. The other 27 national EU leaders now have the power to respond by making it tougher for Britain by demanding an extension to Article 50. This could mean us staying in the EU for another two years and British voters taking part in the European Parliament elections in May.

Iain Duncan Smith (2019) also stated that those who support a longer extension to Article 50 of the TEU “to force Britain to stay in the EU” are “the true threat”; and, as well as other Conservative Party MPs, including Singham (2019a), he argued that the British parliament approving the withdrawal agreement would empower Britain to negotiate trade under a new Conservative Party Prime Minister. However, Conservative Party MP, John Redwood said that “we decided to pull out of a treaty, not to sign another one without an exit clause”; and Conservative Party MP, Justine Greening, said that “nothing has changed so why change your vote” (Hawkes 2019a).

On 29th March 2019, the withdrawal agreement was defeated for the third time by 344 to 286 votes by a majority of 58, which was significantly less than the majority of 149 votes in the second meaningful vote and the majority of 230 votes in the meaningful vote (Forsyth 2019a). Thousands of people attended a march in London in protest to the Brexit delay, and an organisation called Stand Up To Racism held a counter-protest “against the far right who are trying to capitalise on the Brexit crisis” (Read 2019b). According to Forsyth (2019a), a fourth meaningful vote was still

unlikely even if the government “could find a procedural way to do so” because even if the 10 DUP MPs and 34 Conservative Party MPs who voted against the withdrawal agreement decided to support it, it still wouldn’t pass.

It was reported that Theresa May was planning to put forward the withdrawal agreement for a fourth time the following week (Swinford and Rayner 2019). Forsyth (2019a) concluded that as a result of the third defeat of the withdrawal agreement and Theresa May saying that “we are reaching the limits of this process in this House”, there was a greater likelihood of a longer extension of Article 50 of the TEU, which was to be decided upon at a Special European Council on 10th April 2019; and a subsequent general election. According to Walker (2019a), “an election before any Brexit deal is finalised would necessarily require a long-ish extension to departure, one that would require the UK to take part in European elections in May, a battle none of the mainstream parties would relish” and “largely static polls leave open the very real possibility that weeks of campaigning could end up in another hung parliament, one no closer to resolving Brexit”. Forsyth (2019a) stated that “this country’s immediate future is now in the hands of the EU”.

Britain was to propose an alternative Brexit option to the EU before 12th April 2019 (Charlish and Macdonald 2019). Michel Barnier said “let me be frank: Without a positive choice, the default option would be a no-deal, which has become more likely. It was never our scenario, but the EU27 is now prepared” (Herszenhorn and Broniatowski 2019). He claimed that “a no-deal departure by the U.K. would not be a clean break but would inevitably entail further negotiations” (Herszenhorn and Broniatowski 2019). Michel Barnier concluded that “A no-deal [sic] is not a final stage. The UK will become a third country in a disorderly way. There will be a lack of trust as a consequence” (Herszenhorn and Broniatowski 2019).

Michel Barnier said that the EU was willing to negotiate a customs union with Britain (Herszenhorn and Broniatowski 2019). In the event of a no-deal Brexit, the EU was prepared to establish preconditions for a FTA with Britain that would include elements of the withdrawal agreement, such as payments into the EU’s long-term budget until 2020 and protections for the border between Northern Ireland and the Republic of Ireland (Herszenhorn and Broniatowski 2019). According to Herszenhorn and Broniatowski (2019), a customs union “would maintain a common trade policy and external tariffs” and “largely solve the problem of the Northern Ireland border”, therefore rendering the backstop solution unnecessary.

6. Conclusion

The DUP was influential in the Brexit negotiations despite the suspension of the NIA since 9th January 2017. The governing Conservative Party lost its majority in Britain's snap general election to the House of Commons that was held on 8th June 2017, and Theresa May became dependent on the DUP for her working majority in the House of Commons. The DUP was inevitably more influential in the Brexit negotiations than Sinn Féin, which abstains from participating in sittings at the House of Commons. However, Northern Ireland's unionist parties had less than 50% of the vote in Britain's snap general election for the first time since the partition of the island Ireland in 1921, and Northern Ireland's nationalist parties experienced unprecedented gains in the NIA election that was held on 2nd March 2017. The Northern Ireland peace process, or more specifically, the border between Northern Ireland and the Republic of Ireland, was one of the most controversial issues in the Brexit negotiations. The British parliament and government's inability to reach a consensus on the withdrawal agreement, which incorporated the backstop solution, ultimately led to the postponement of Britain's withdrawal from the EU on 21st March 2019.

Although nationalism is often associated with right-wing political parties, Sinn Féin is a left-wing political party that is central to advocating nationalism in Northern Ireland. Britain voting to leave the EU and the election of Donald Trump as President of the United States of America (US) in 2016 are just two of many events that demonstrate the international trend away from unity and towards populism, right-wing nationalism, and subsequent division that has seemingly emerged as a result of fear of globalisation and a subsequent increase in migration. Some people supported Britain leaving the EU because they thought that it would reduce or even prevent immigration, although this may not be the case because EU net migration to Britain is significantly lower than non-EU net migration to Britain. No action, including a country withdrawing from its membership of an international political and economic union, is likely to reverse the rapid development of technology and communications that has inevitably led to globalisation and a subsequent increase in migration.

Some believe that the international trend towards right-wing nationalism may lead to the collapse of the EU and the dissolution of countries with devolved regions such as the UK unless or until unity once again becomes an international trend. Unity often emerges after conflict, which was demonstrated by the establishment of the European Coal and Steel Community (ECSC) in 1951 and the establishment of the European Economic Community (EEC) in 1957 in the aftermath of the Second World War with the fundamental purpose of preserving peace, which eventually led to the

establishment of the EU in 1993. The postponement of Britain's withdrawal from the EU, the partition of Ireland in 1921, and other historical events suggest that division arising from nationalism is a longstanding, complex, ongoing, and repetitive phenomenon that is unlikely to change or be solved over time.

6.1 Recommendations

6.1.1 The British education system

The Brexit negotiations in the media reflected some journalists' and politicians' lack of knowledge of the Northern Ireland peace process. According to Flanagan (2019b), "many people in Britain are unaware that Ireland is a separate country at all". In his article in *The Irish Times*, he shares his experiences as an Irish migrant living in Britain "stepping into the void and filling the gaps left by British education system" (Flanagan 2019b). He questioned "how to educate someone on their own history, without sounding like an overly sensitive, confrontational IRA sympathiser? Is it possible to let go of the past, when one of the parties involved is unaware that the past even took place?" (Flanagan 2019b).

If compulsory education in Britain sufficiently included media literacy, politics, the history of Northern Ireland and the Republic of Ireland, and languages, perhaps some journalists and politicians would have been less likely to dismiss forecasts for the potential consequences of Brexit as scaremongering. Readers of pro-Brexit media outlets may have also been more likely to think critically when reading articles that appeared to denigrate and misquote or selectively quote pro-EU politicians and negotiators. Personally, media literacy, British politics, and the history of Northern Ireland weren't part of my compulsory education, and I think that they ought to have been. It's also important to educate people about the importance of democratic participation and the impacts of politics on almost every aspect of our lives. For example, I was shocked when my former housemate studying a Bachelor's degree in law once said that she voted solely based on the politicians' physical appearance. In his research that examines the importance of speech and activity in societal change and progress, Bowker (2019, p.7) presents a statement about neutrality, indifference, and privilege that has been widely shared on social media:

I want my friends to understand that 'staying out of politics' or 'being sick of politics' is privilege in action. Your privilege allows you to live a non-political existence. Your wealth, your race, your abilities, or your gender allows you to live a life in which you likely will not be a target of bigotry, attacks, deportation, or genocide. You don't want to get political, you don't want to fight because your life and safety are not at stake.

I didn't learn about the Troubles until I participated in a civil war course during my Master's degree. In fact, I didn't learn anything significant about the damaging impacts Britain's colonial past until after my compulsory education had ended, and I didn't learn that if Britain hadn't colonised the island of Ireland, the partition of the island of Ireland in 1921 might not have eventually led to the 30-year Troubles conflict or delayed the Brexit negotiations. The national curriculum for secondary schools in England suggests British involvement in the island of Ireland and subsequent conflict and home rule as non-compulsory examples of "the development of Church, state and society in Britain" and "ideas, political power, industry and empire" (GOV.UK 2013, p.96). Educating the population about the impacts of British colonisation is undoubtedly not in the interest of a British government that is dependent on the support of nationalists. Admittedly, it would be impossible to include in compulsory education everything that people claim is of significant importance, and we should also consider our own responsibility for individual learning. However, it may be challenging or even impossible for someone to research an issue that they don't even know exists because it's never been introduced to them.

It is highly possible that a lack of knowledge of media literacy, politics, Northern Irish history, and languages and cultures led to many misunderstanding the purpose of the EU and supporting Brexit, arguably through no fault of their own. Some suggest that this can be exploited by politicians in election campaigns, as their electorate are easily influenced. Moreover, many pro-Brexit media outlets portrayed the EU as an organisation that is trying to unify Europe as a single sovereign state; whereas in reality, the EU was created with the purpose of preserving peace and enhancing solidarity among its member states, for example, due to increasing economic competition from large countries such as the US and China. A union of smaller countries has more negotiating power than if all those countries were to individually negotiate trade agreements with larger countries (Sigurðardóttir 2019).

6.1.2 The British electoral system

Some claim that Britain's referendum on EU membership was democratically flawed. For example, Vesey-Byrne (2017) argued that Brexit wasn't the will of the electorate because 28% of the British population weren't on the electoral register, 27% of the British population voted for Britain to leave the EU, and 25% of the British population voted to remain in the EU, and 20% of the British population didn't vote. According to Vesey-Byrne (2017):

A person may not be on the register by their own choice, or due to ineligibility such as not yet being old enough, being in prison, or not possessing UK citizenship. EU Citizens living in the UK were ineligible to vote in Britain's referendum on EU membership unless they

were from Malta, Cyprus, or the Republic of Ireland. Members of the House of Lords are usually ineligible to vote at UK General Elections, but were allowed to vote in the EU Referendum. British citizens who had lived abroad for more than 15 years were included in the 'Did not vote' category, as they are on the electoral register but were not permitted to vote in the referendum (nor are they allowed to vote in other UK elections).

Therefore, all EU citizens living in Britain and some British citizens who had lived abroad for more than 15 years were unable to vote on Brexit, which many felt could put their livelihoods at risk (House of Commons Library 2019). Vesey-Byrne (2017) concluded that those who were registered but didn't vote and those who were eligible to vote but didn't register were accountable for the outcome of the referendum on Britain's membership of the EU.

On 5th May 2011, Britain voted against replacing the current first-past-the-post (FPTP) electoral system with the alternative vote (AV) in a referendum. Under FPTP, "the candidate with the most votes wins, regardless of their share of the total number of votes cast" (Mulholland 2011). Under AV, voters have the option of ranking the candidates in order of their preference, and the candidate that has 50% or more first preference votes is elected (Mulholland 2011). If no candidate has 50% or more first preference votes, the candidate with the fewest votes is eliminated and their votes are reassigned according to the second preference votes, and the process continues through each preference until a candidate is elected. If there is still no candidate that has 50% or more votes, the candidate with the most votes wins (Mulholland 2011).

Politics in Northern Ireland still appear to be dominated by the DUP and Sinn Féin, despite the NIA being elected by the single transferable vote (STV) electoral system, which is a form of PR. Under STV, voters also have the option of ranking the candidates in order of their preference, and larger areas elect multiple candidates. Therefore, voters can choose candidates from the same or different parties based on candidates' individual abilities and interests, which also gives voters a choice of representatives to communicate with (Electoral Reform Society 2019). As a result of Britain's general elections being held under the FPTP electoral system and the subsequent two-party dominance in Britain, many voters resort to tactical voting by choosing either the Conservative Party or the Labour Party in order to avoid respectively either a left-wing or right-wing parliament and government. Some believe that voting for smaller parties wastes their vote and therefore doesn't make much difference. However, tactical voting on the basis of a candidate's political party membership can be ineffective as MPs can keep their seat after changing their membership of a political party (Bagehot 2011).

Mulholland (2011) claims that AV would improve election turnouts because it eliminates the need for tactical voting since people can vote by ranking the candidate without fear of wasting their vote. Therefore, AV was opposed by many Conservative Party and Labour Party MPs; but supported by many smaller parties including the Green Party, the Liberal Democrats, Plaid Cymru, the SDLP, Sinn Féin, the SNP, and UKIP. AV also discourages candidates from negative campaigning against other candidates due to the possibility of being chosen as a second or third preference, and encourages moderation by reducing the likelihood of extremist parties being elected because they would be unlikely to have many second or third preference votes (Mulholland 2011).

Under FPTP, MPs who keep their positions for a significant amount of time due to having large majorities, or safe seats, can take advantage of this, for example by abusing their expenses, and are unlikely to be contested; and parties can continue to focus on the needs of constituencies with small majorities, or marginal seats, in order to avoid losing the support of those constituencies (Mulholland 2011). Under AV, constituencies with large majorities and potentially also corrupt MPs would be more likely to be contested (Mulholland 2011). On the other hand, some argue that AV would cost more in time and money; and could lead to more hung parliaments, although others claim that there were already hung parliaments in 2017 and 2010 as a result of FPTP, the latter of which lead to a coalition government between the Conservative Party and the Liberal Democrats (Mulholland 2011; House of Commons Library 2017a). Moreover, AV is unlikely to lead to more coalition governments because it isn't proportional representation (PR) (Mulholland 2011), an electoral system in which seats are proportional to the number of votes. During the 2011 referendum, some opposed AV in favour of PR (Mulholland 2011).

In Britain's general election on 7th May 2015, UKIP had 12.6% of the vote and gained one seat in the House of Commons, the Liberal Democrats had 7.9% of the vote and gained eight seats, the SNP had 4.7% of the vote and gained 56 seats, the Green Party had 3.8% of the vote and gained one seat, and Plaid Cymru had 0.6% of the vote and gained three seats (Perraudin 2015). The Green Party and UKIP together had 16.4% of the vote, representing around 5 million people, and gained two seats (0.31%) in the House of Commons. Under a proportional representation electoral system, UKIP would have gained around 82 seats, the Liberal Democrats would have gained around 51 seats, the SNP would have gained around 31 seats, and the Green Party would have gained around 23 seats (Perraudin 2015). If Britain had voted for replacing FPTP with AV, perhaps Britain's

political landscape would have been very different during the Brexit negotiations. However, an alternative electoral system is undoubtedly not in the interest of the Conservative Party and the Labour Party, who benefit from the current FPTP electoral system and the subsequent two-party dominance in Britain.

Theresa May's predecessor, David Cameron, said "I believe that Britain will be safer, stronger and better off by remaining in a reformed European Union" (McCann 2016). On 24th June 2016, the day after Britain's referendum on EU membership, David Cameron announced his intention to resign before October 2016 because he said that "the British people have made a very clear decision to take a different path and as such I think the country requires fresh leadership to take it in this direction. I will do everything I can as Prime Minister to steady the ship over the coming weeks and months, [sic] but I do not think it would be right for me to try to be the captain that steers our country to its next destination" (Micklethwaite 2016).

The Express (2019) stated that Theresa May "had not campaigned for Brexit but understood that it was her duty - and that of every politician - to honour the will of the electorate and achieve a successful departure from the European Union". However, for some of those who supported Britain leaving the EU, perhaps Theresa May, who voted to remain in the EU (Blitz 2018), wasn't the best person to be the head of government representing Britain in the Brexit negotiations. Divisions regarding whether to leave or remain in the EU and whether to oppose or support the withdrawal agreement existed not only within the British parliament, but also within the government and within political parties themselves. According to The UK in a Changing Europe (2018, p.2; as cited in Blitz 2018) research initiative, "as the Brexit process rolls on, debate about the proper locus of political power within the UK is becoming as fraught as that over a new UK-EU relationship".

6.1.3 Future research

The time frame for this research starts from the suspension of the NIA on 9th January 2017 and ends on 29th March 2019, when Britain was expected to formally withdraw from the EU, notwithstanding the postponement of Britain's withdrawal on 21st March 2019 due to the extension of Article 50 of the TEU. Future research could continue the analysis beyond 29th March 2019. For example, on 1st April 2019, MPs took control of the parliamentary schedule for a second time and there was a debate about the petition for the revocation of Article 50 of the TEU signed by more than 6 million British citizens and UK residents (Petitions - UK Government and Parliament 2019). On 18th April 2019, Northern Irish journalist, Lyra McKee, was shot in Derry, allegedly by the New IRA (NIRA).

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